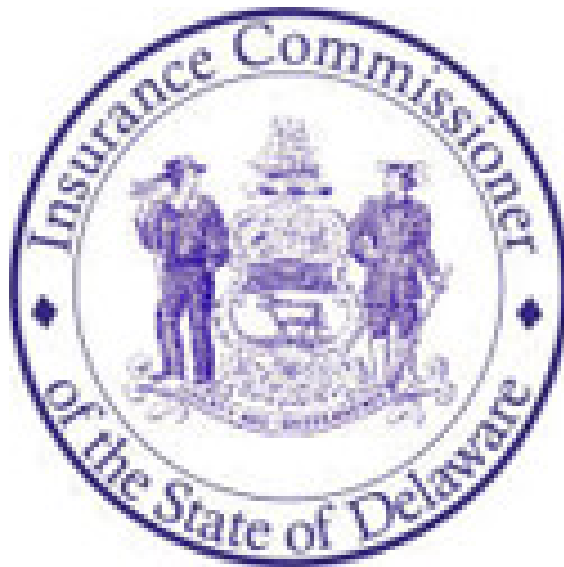


State of Delaware Department of Insurance



Surplus Lines Brokers' Procedures Manual

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PREFACE

A significant part of the Delaware Insurance Commissioner's obligation to Delaware citizens is to ensure that sufficient protection is available for risks throughout the state. The surplus lines market exists to help provide coverage that is not available through the admitted market. All surplus lines (SL) business is subject to conditions specified in Delaware Code, Title 18, Chapter 19, and it is through the responsibilities placed on surplus lines licensees that the surplus lines market is regulated by the Insurance Department.

The Department has several distinct areas of regulatory responsibility for surplus lines:

- Monitor transactions to ensure that the conditions in 18 Del. C., Ch. 19 are met
- Gather and analyze data pertinent to the insurance marketplace to identify deficiencies in coverage that may exist in the state
- Collect premium tax on gross written insurance premium
- Enforce surplus lines licensee compliance with reporting requirements established by the Insurance Commissioner

The Delaware Insurance Commissioner's Office has produced this *Surplus Lines Brokers' Procedures Manual* to assist resident and non-resident Delaware Surplus Lines licensees and their staffs with understanding the procedures they must follow to be in compliance with the Delaware Surplus Lines Insurance Law.

While this Procedures Manual was developed as a guide to meeting the requirements as set forth in the Surplus Lines Law, the responsibility to meet the requirements rests with the surplus lines broker alone. In all questions of compliance, always refer to the current Delaware Surplus Lines Law, which can be found at the Department's website at www.delawareinsurance.gov.

The procedures described in this manual must be followed by all resident and non-resident SL brokers. Non-residents should note that when surplus lines placement is made for a risk (or any part of a risk) located in Delaware, the filing process is conducted according to the guidelines in this Procedures Manual, based on Delaware law, and not on the filing procedures of your home state or any other jurisdiction.

A note about abbreviations

Delaware law refers to the surplus lines licensee as "surplus lines broker" and throughout this manual we have shortened that to "SLB" or "SL broker" and surplus lines is often shortened to SL. The term "business entity", or "BE", refers to firms, brokerages, agencies, etc. but not to insurance companies. When referring to an insurance company we have interchangeably used the terms insurer, carrier or insurance company. *If you are unclear as to the meaning of a term or reference, check the Glossary section or contact the Insurance Department.*

THIS MANUAL IS DIVIDED INTO FIVE MAIN SECTIONS:

Part 1 covers a basic understanding of the surplus lines market and surplus lines broker responsibilities.

Part 2 describes procedures that must be followed before a placement is made in the SL market.

Part 3 details the procedures for submitting SL filings with the Insurance Department.

Part 4 provides detailed, item-by-item instructions for completing required SL forms.

Part 5 is a reference section containing a glossary of terms, a reference copy of the Delaware Insurance Code, Title 18 Chapter 19, and reference copies of Delaware SL Bulletins.



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To obtain Surplus Lines Broker Reporting Forms visit the Insurance Department's website and click on Surplus Lines under SERVICES on the left side the main page.

PART 1: SURPLUS LINES BACKGROUND INFORMATION

What is Surplus Lines insurance?

The surplus lines or *non-admitted* market exists to help fill insurance gaps by picking up those distressed, unique or high-capacity risks that are unacceptable to admitted carriers.

Most insurance coverage is written with insurers that operate in what is referred to as the traditional or *admitted* market – licensed insurance companies that are authorized by the State to do business in the state. But this is not always possible. For various reasons, admitted insurers may decline to provide coverage. When coverage cannot be procured from authorized insurers, that coverage becomes “surplus lines,” and may be procured from eligible unauthorized companies not licensed in the state of Delaware. These companies are not under the jurisdiction of the Delaware Insurance Commissioner and the Department does not regulate the companies as they do licensed insurers.

However, this does not mean that surplus lines insurance is not regulated. Under Delaware law, the regulation of the surplus lines (SL) market is accomplished by placing a number of requirements on YOU – the Surplus Lines Licensee.

The specific details as to what requirements must be met in order for insurance business to be transacted with a non-admitted insurer are contained in Title 18, Chapter 19, referred to as the *Surplus Lines Law*, and the procedures detailed in this manual will assist you in fulfilling those requirements.

What is NOT Surplus Lines – the § 1902 Exemptions

The surplus lines law is not applicable to certain, specific kinds of insurance. The kinds of insurance to which the surplus lines law does not apply are specified in §1902 and include the following:

1. Life insurance
2. Health insurance
3. Reinsurance
4. Wet marine and transportation insurance;
5. Insurance on subjects located, resident or to be performed wholly outside this State or on vehicles or aircraft owned and principally garaged outside this State;
6. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations;
7. Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability, other than worker's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

QUESTIONS

Questions or comments regarding the contents of this manual should be directed to Ann.Fletcher@state.de.us, or you may call 302-674-7300 and ask for the Surplus Lines section.

An Overview of the Insurance Commissioner's Responsibilities:

✓ **Licensing** ✓ **Types of Risk** ✓ **Eligible Carrier** ✓ **Disclosure** ✓ **Documentation** ✓ **Taxation**

✓ Licensing

To fill its unique place in the insurance market efficiently, surplus lines must operate through a flexible distribution system that is able to cope with the needs of a wide variety of insurance consumers. Delaware law requires that all parties involved in procuring any insurance coverage be licensed by the Insurance Department and anyone who places coverage with a non-admitted company must be specially licensed as a surplus lines broker. The Department provides SL broker licenses for resident and non-resident individuals and business entities, and monitors professional continuing education requirements to ensure that Delaware consumers receive the highest quality service from insurance professionals.

✓ Types of risk

As mentioned on page 1, some types of insurance coverage are never considered surplus lines. In order for any coverage to be placed with a non-admitted company (referred to as "exported to surplus lines") certain conditions must be met. These conditions are detailed in §1904 and each policy that is submitted to the Department is checked to see that *all* of these export conditions are met.

✓ Eligible Carrier

When admitted carriers do not provide coverage, and the conditions for export are met, a SLB may procure coverage from certain unlicensed companies that are deemed eligible to provide surplus lines coverage on risks in Delaware. Delaware law allows these companies to be considered "approved" as surplus lines carriers, and the Department maintains the Eligible Surplus Lines Insurers listing – also referred to as the Bulletin # 5 listing – on its website. Placing a company on the list of eligible SL insurers does not require the Commissioner to determine the actual financial condition or claims practices of the unauthorized insurer – in fact, it is the SLB's responsibility to check that a company is financially sound before procuring coverage from that insurer. Each SLB must restrict surplus lines business placed by him or her to the insurers on the listing.

✓ Disclosure

Most of the Delaware Insurance Code is in effect to protect insurance buying consumers in Delaware. The surplus lines law provides specific wording that must be emphasized on policy documents to make sure that consumers who purchase surplus lines insurance are aware that their coverage is with a company that is not licensed in Delaware and therefore not under the authority of the Insurance Commissioner. One of the Insurance Commissioner's key responsibilities is to be sure that insurance consumers make informed decisions, and this is accomplished in part through enforcing the "endorsement of contract" provision in §1909.

✓ Documentation

The best way that the Department can monitor each surplus line transaction to be sure the conditions for export are met is through the documentation provided by Surplus Lines Brokers. An important part of the Department's function is to gather, analyze and evaluate the data that is captured from required document filings, to watch for deficiencies in the insurance market and make sure that pricing is reasonable.

✓ Taxation

Delaware law assesses a tax of 2% on each dollar of insurance premium written on risks located in the state. What makes the tax on SL premium unique is that the tax is paid by the insured, rather than the insurer, as would be the case with admitted business. The SLB remits the tax to the Department on behalf of the insured. Delaware law charges the Department with collecting the tax from SL brokers, and empowers the Commissioner to assess penalties if necessary to enforce compliance with premium tax filing and payment procedures.

An Overview of the Surplus Lines Broker's Responsibilities:

✓ **Licensing** ✓ **Diligent Effort** ✓ **Inquiry** ✓ **Disclosure** ✓ **Taxation** ✓ **Filings** ✓ **Records**

✓ Licensing

All SL business must be procured through a duly licensed SLB. (§1904) The Department requires that **both** individuals and business entities (agencies, brokerages, firms, etc.) be specially licensed for surplus lines to transact SL business on Delaware risks. Non-residents may become licensed in Delaware as SL brokers, and should do so if they intend to transact SL business in this state. It is the SLB who must meet the Department's requirements and who will be held responsible for compliance with Chapter 19.

Be certain that proper SL licensing – individuals and business entities – has taken place prior to any solicitation, negotiation or placement of surplus lines policies covering Delaware risks.

✓ Diligent effort

Before placing any coverage with a non-admitted insurer, the individual that represents the insured – usually the Producer but can be the SLB – must first seek the desired coverage from among admitted insurers who are writing comparable coverage in Delaware. After three admitted insurers have declined to provide the coverage, a SLB may contact a non-admitted insurer and the coverage may be placed on a surplus lines basis. This “diligent effort” requirement is one of the conditions for export detailed in §1904.

✓ Inquiry into financial condition of insurer

Although the SLB is required to place business only with insurers on the Eligible SL Insurers list, the Commissioner is not required to determine the actual financial condition or claims practices of any unauthorized insurer on the list. Every SLB should make a thorough inquiry into the financial condition and operating history of the SL insurer before placing business with the company. The SLB is under a continuous duty to be aware of the insurer's general financial health and claims practices. Whenever any reasonable doubt arises as to the capacity, competence, stability or good faith of the insurer, the broker is under further duty to cease and desist placing business with that insurer and inform the Commissioner of the basis of the doubt.

✓ Disclosure to insured

Whenever a SL transaction takes place, the SLB must stamp (or print) the insurance contract with the wording specified in §1909. The stamp must also bear the initials or name of the SLB who procured the coverage. This “endorsement of contract” provision ensures that the consumer is aware that the company providing the coverage is not licensed in DE and the Insurance Commissioner does not have regulatory authority over that company. In addition, the SLB should inform the consumer that, because the company is not licensed, if the surplus lines company becomes financially unsound, there will not be any benefits provided to policyholders through the Delaware Insurance Guaranty Association.

✓ Collect taxes from insured and remit to Department

Each SLB acts in a fiduciary capacity when handling the premium payments the policyholders entrust to him or her. That premium includes the 2% tax on insurance premiums, and it is the SL broker's responsibility to remit that premium tax to the Department in an accurate and timely manner.

✓ Make filings to Department

The Insurance Commissioner regulates the SL market through the requirements placed on SL brokers. Each filing requirement detailed in *Part 3: Filing Requirements* serves a specific purpose related to that regulation. It is vitally important that SL brokers and their staff submit the required information to the Department both accurately and efficiently.

✓ Maintain records open to inspection for 5 years

Every SLB must maintain in their office a full and complete record of each surplus line coverage procured by him or her, and §1915 details the types of information that must be kept in those records. According to 6 Del. C., §12A-112, records may be kept in electronic format. The records must be open to examination by the Commissioner at any time for 5 years after issuance of the coverages to which they relate.

PART 2: BEFORE EXPORTING TO SURPLUS LINES

Responsibilities of the Insurance Producer and the SLB

1. Obtain a surplus lines license

A SL broker is an insurance producer, licensed for general lines of authority, who has also obtained a SL license that allows them to sell, solicit or negotiate contracts of insurance with eligible non-admitted surplus lines insurers. Delaware requires that all parties taking part in a SL transaction be licensed. This requirement applies to **both** the individual SLB and the Business Entity (agency, brokerage, firm, etc.) with which the individual is affiliated. An individual SLB affiliated with a business entity is “linked” to the business entity’s license, and any other individuals affiliated with the business entity who become licensed for SL will also be linked to that business entity license in the Department’s records.

Some SL brokers elect to accept business from duly licensed insurance producers (often referred to as the retail or wholesale agent) and some SL brokers serve as both the producer and the SLB in client representation. Either way, SL transactions require a duly licensed Producer to represent the insured **and** a SLB who is licensed to access the SL market, in order to make the placement.

IMPORTANT: While §1914 allows a SLB to accept and place SL business for any insurance producer licensed in DE, **only** a duly licensed SLB (not a producer) may transact business with non-admitted insurers. The Department will not allow the submission of “courtesy filings” in which an insurance producer (either resident or non-resident) places SL business with a non-admitted carrier, then contacts a Delaware licensed SLB to submit the state filings.

REMEMBER: Be certain that proper SL licensing – individuals and business entities – has taken place prior to any solicitation, negotiation or placement of surplus lines policies covering Delaware risks.

The Department’s Producer Licensing section has contact information, licensing applications and general instructions for both individuals and business entities available at the Department’s website at: www.delawareinsurance.gov.

2. Make a diligent effort to procure the coverage from admitted insurers

Surplus lines insurance may be procured by SL brokers from non-admitted insurers “...after diligent effort has been made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this State...” §1904 (2). Delaware, like most states, **requires** a minimum of three declinations from representatives of admitted insurers. The declinations serve as evidence that this “diligent effort” was made prior to placing the coverage with an unauthorized insurer.

Delaware does not have an “Export List.” All surplus lines policies for all lines of business are subject to the provisions in Chapter 19, and all surplus lines brokers must abide by those provisions. The Department’s requirement of three declinations applies to all surplus lines business. Although §1906 empowers the Commissioner to declare any class or classes of insurance coverage eligible for export, the Commissioner has not done so as of this publication.

3. Check the financial condition and eligibility of insurer

Delaware law specifically states, “A broker shall not knowingly place surplus line insurance with an insurer that is unsound financially or that is ineligible under this section” §1907 (a). The Department publishes a list of insurers deemed eligible to place surplus lines coverage, and all SL brokers are permitted to place business with listed eligible insurers **only**. But the status of eligibility, if granted by the Commissioner, only indicates that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. The Commissioner is not required to determine the actual financial condition or claims practices of any unauthorized insurer. The SLB should be vigilant as to the insurer’s condition of solvency and operating practices, and should notify the Department if there is any reason to doubt the insurer’s financial condition.

Delaware domiciled companies and the Bulletin # 5 Eligible SL Insurers List – There are various reasons why a company with which a SLB is familiar may not be included on the eligible SL insurers list. One common reason is that Delaware is the domicile (state of incorporation) for many companies that are SL insurers. By definition surplus lines business is insurance placed with a company that is not licensed in the state, but a Delaware domiciled company *is* licensed in DE, thereby making any policy written by that company on DE risks not surplus lines but *admitted* business subject to all the applicable rules and restrictions of the admitted market. Although they may provide insurance coverage on a surplus lines basis in other states, DE domiciled companies cannot place surplus lines business on risks in Delaware and are not included on the eligible SL companies listing. **REMEMBER: It is the SL broker’s responsibility to check and make sure the SL insurer is included on the listing of eligible SL insurers published by the Department prior to placing any business with that insurer.**

4. Provide the “Endorsement of Contract” disclosure statement to the insured

Delaware law (§1909) is very specific regarding this requirement:

“Every insurance contract procured and delivered as surplus lines coverage pursuant to this law shall have stamped upon it, initialed by or bearing the name of the surplus line broker who procured it, the following:

‘This insurance contract is issued pursuant to the Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department.’”

Although § 1909 uses the term stamped, it is permissible to have the endorsement of contract wording printed on the policy documents.

Upon placing SL coverage, the SLB must promptly deliver to the insured evidence of the insurance contract. If the policy as issued by the insurer is not immediately available (within 15 days of acceptance of the quote by the insured), a cover note, binder or SLB certificate shall be delivered to the insured, then replaced when such policy becomes available from the insurer. The evidence of the insurance contract executed by the SLB must show a description of the insurance as stipulated in § 1908. If the direct risk is assumed by more than one insurer the evidence shall state the name, address, and proportion of the entire direct risk assumed by each insurer.

In addition, every policy, cover note, or other instrument of insurance delivered to the insured, and placed with an unlicensed insurer in accordance with Delaware law, shall contain a Service of Suit Clause as prescribed in Surplus Lines Bulletin # 3.

PART 3: FILING REQUIREMENTS

This section is designed to give general instructions about the Department's required filings to duly licensed SL brokers and their staffs to enable them to submit the filings accurately and proficiently. Specific instructions for completing forms are contained in Part 4.

Broker Identification

All surplus lines licensees – individual brokers and business-entities – must use their 7-digit Delaware SL license number as their Broker ID or Agency ID. This number will be consistently used by the Department for SLB identification. The 7-digit Broker ID should be used on all correspondence to the Department, including all forms. Agencies should also use their 7-digit Delaware business entity SL license number for identification purposes. Although the premium tax section of the Department retains SSN and FEIN in the tax data records, those numbers are only used for cross-matching purposes, not as general identification numbers.

The Conditions for Export -- § 1904

Sufficient information must be included in SLB filings to enable the Department to determine if these conditions for export to the SL market have been met:

- ✓ the business was placed by a duly licensed SL broker
- ✓ a diligent effort to procure the business from admitted insurers was made
- ✓ the full amount of insurance required was not procurable from admitted insurers and the amount exported is only the excess over or other than the amount procurable from admitted insurers
- ✓ the business was not placed to get lower premium rate or because of the terms of the insurance contract
- ✓ the insured is aware of the Disclosure Statement provision in §1909
- ✓ the SL broker collects, reports, and remits the proper tax

All of this information will be provided by following these Six Submission Steps, which will be described in detail on the following pages:

1. Obtain and retain the SL Statement of Diligent Effort (Form SL-1904).
2. Submit the SL Notice of Transaction (Form SL-1905) for the original policy within 30 days after the effective date of any coverage placed with a non-admitted insurer.
3. File any required Endorsements and Other Update Forms as necessary if the original policy changes during the policy period.
4. Adhere to Filing Instructions to avoid having submissions returned or otherwise delayed by the Department.
5. Submit the Quarterly Premium Tax Report (Form SL-1917) and remit premium taxes as instructed.
6. Submit the Annual Surplus Lines Premium Tax Summary Report (Form SL-1916) on or before March 1 each year.

The procedures described in this manual are to be followed by all resident and non-resident SL brokers. Non-residents should note that when a SL placement is made for a risk (or any part of a risk) located in Delaware, the filing process is conducted in accordance with this Procedures Manual, based on Delaware law, and not on the filing procedures of your home state or any other jurisdiction. A copy of Chapter 19 as in effect June 27, 2006, is included in this manual, but check for the most current Delaware Surplus Lines Law on the Department's website by selecting the link for "Delaware Insurance Laws" and then choosing Chapter 19.

Six Submission Steps

Step 1. Obtain and retain the SL Statement of Diligent Effort (Form SL-1904).

Coverage must be sought in the admitted market before it can be exported to surplus lines. Three declinations are required as evidence that a “diligent effort” to do so was made prior to placing the coverage with an unauthorized insurer. The declinations must come from insurers that are authorized to transact and actually writing that kind and class of insurance in this State but are not corporate affiliates of the SL insurer.

The *Surplus Lines Statement of Diligent Effort* (Form SL-1904) requires that either the Producer or the SLB declare that this search has, in fact, been completed, and substantiates the declinations. This form must be completed as instructed and then retained by the SLB for each new surplus lines policy, when a policy renews, or when there is any material change to an existing policy. **DO NOT SUBMIT THIS FORM TO THE DEPARTMENT.**

If the producing agent is not licensed for surplus lines, the form must be completed and signed by the producer then forwarded to the SLB. If the SLB also acts as the producing agent, the SLB must complete and sign the form. The form must be kept with the SL broker’s other policy records and must be open to examination by the Department at all times for 5 years after issuance of the coverage to which it relates. (§1915)

Step 2. Submit the SL Notice of Transaction, (Form SL-1905).

The Department developed the *Surplus Lines Notice of Insurance Transaction*, Form SL-1905, to replace the Broker Affidavit (old Form SLB-A1), the Broker Certificate (old Form SLB-C1), and the Broker Record (Form SLB-R1.) The SL-1905 form is in Microsoft Excel® format, and can be submitted to the Department electronically as an email attachment. The form may also be printed for broker records and given to the insured as evidence of insurance transacted.

IMPORTANT: Stamping Fee Information – Delaware does not have a stamping office and the Delaware Insurance Department does not charge a “stamping fee” for any SL submissions.

The SL-1905 form may be used on an occurrence basis, for new business, renewal business and any changes to existing business. The form must be received by the Department within 30 days of the effective date of the policy or change. A copy of the form(s) must be retained in the SL broker’s records and be open to examination by the Commissioner at all times for 5 years after issuance of the coverage to which it relates. No SLB shall issue the SL-1905 form until the broker has confirmation from the insurer that the insurance has been accepted and is in effect. The form may be delivered to the insured as evidence of insurance coverage if the policy is not immediately available. Proper use of the SL-1905 form shall constitute compliance with 18 Del. C., §§1905, 1908, and 1915.

To satisfy the needs of the Department, the insured, and the procuring SL broker’s records, the SL-1905 form provides the following information, which is described on the following pages:

- Procuring SLB and Producer information
- Policy information
- Required “Endorsement of Contract” wording
- Affirmation of diligent search and statutory compliance
- Coverage information
- Premium tax and fees information

General Instructions and Description of Information required on Form SL-1905

➤ *Procuring SLB and Producer Information*

As stated earlier in this manual, use the 7-digit Delaware SL license number for the Broker ID and the Agency ID. Identify the individual SLB responsible for procuring the coverage. List the address of the business entity. The Contact person is that person in the office who should be contacted if the Department has a question regarding the submission. This person does not necessarily have to be the SLB.

If there is any other producer or SLB taking part in the transaction, besides the reporting SLB, list all required information for that individual, including their DE producer license number. For reporting purposes, the Department defines “Producer” or “Agent” as any DE insurance licensee and “SL Broker” as a Producer or Agent who is also licensed for surplus lines.

➤ *Policy Information*

This part of the form provides much of the information required in §1915 (a) regarding the Insured and the policy terms.

- **Type of Transaction** – Select one. If reporting a policy renewal, enter the policy number of the original policy being renewed for reference. If “Endorsement” or “Other” is selected, give a brief explanation in the field labeled “Changes”.
- **Effective Date and Expiration Date** – Enter in MM/DD/YY format. The effective date is the inception date of the policy.
- **Policy Term** – Enter in months or days. *For example, enter 12 months – not 1 year.*
- **Insured’s Name and Address** – This should be the contact point for the policy. If it is a commercial risk, enter the business name and main business address. If the location of the risk is not the same as the insured address, or there are multiple risk locations, enter information describing the actual physical location of the risk with the highest exposure in the area labeled “Description of Risk”.
- **Description of Risk** – This field has a drop-down list of common descriptions that can be used. Other information can be entered if nothing on the list “fits.” If the physical location of the risk differs from the Insured’s Address, use this field to enter the physical location of the risk.

NOTE: The first line of all drop-down boxes is blank and manual entry is possible by clicking on the field itself (not the dropdown arrow) and typing the entry.

- **Geographic Location of Risk** – This drop-down indicates where among the three counties in DE and City of Wilmington the risk is located. If coverage is on multiple locations throughout the state, manually enter a notation explaining the risk distribution as accurately as possible. *For example, “Multiple locations -- 50% NC 30% Kent 20% Sussex”* This information is used by the Department in the calculation of the amount of state funding volunteer fire departments throughout the state will receive from premium tax revenues according to 18 Del. C. §705.

➤ *Disclosure Statement “Endorsement of Contract” Wording*

§1909 contains wording that must be included on each policy contract when it is placed with a non-admitted insurer. The law refers to this as “endorsement of contract” and its purpose is to protect insureds by making sure they are aware that the company they are purchasing insurance coverage from is not under the authority of the Delaware Insurance Commissioner. Because the SL-1905 form may be given to the insured as evidence of the insurance contract if the policy is not immediately available, this wording has been incorporated into this form.

➤ *Affirmation of Compliance Check Boxes*

These check boxes indicate the SL broker's adherence to the rules and regulations that apply to surplus lines insurance as set forth in Delaware law and by the Delaware Insurance Department. When the SL-1905 is submitted electronically, the check boxes serve as an "electronic signature" indicating that the SLB accepts that the electronic submission will be attributed to him or her in place of a signed paper document. If either check box is not checked, the record will not be accepted by the Department. The check boxes must be "clicked" in order to check them.

IMPORTANT: The SLB must manually sign the printed copy of the SL-1905 form that is retained in their office records. If the SLB has elected to maintain their records in electronic format according to 6 Del. C., §12A-112, the image of form SL-1905 must present the SLB signature.

➤ *Coverage Information*

This section of the form provides more of the information required by §1915, and gives more details about the insurer and the coverage(s) provided.

NOTE: This section allows for the entry of information for several types of coverage when provided on the same risk by the same insurer. However, if more than one insurer is providing coverage on the same risk, a separate SL-1905 must be submitted identifying each insurer participating in the policy showing what proportion of the entire risk is assumed by each insurer.

- **Insurer Name and NAIC #** – The fields for the Insurer Name and NAIC # are linked to the Eligible SL Insurers List as a drop-down list. The company name may also be entered into the field manually. The Department **requires** the use of NAIC numbers to identify the insurance company. All insurers, including offshore non-admitted alien companies, are assigned a company code number by the NAIC. If you are not sure what the NAIC number is, *ask* – the company should be able to tell you.
- **Policy Number** – The Department uses this number to identify all SL transactions. The policy number assigned by the insurer should be referenced in all submissions related to that policy. In cases where a policy is not available, a binder or broker certificate number may be assigned by the SLB. However, as soon as the policy becomes available, and the binder or certificate is replaced, a *Binder/Policy Number Replacement Form* (SL-1908) must be submitted which refers to the binder or certificate number reported in the original SL-1905 filing.
- **Percent of Coverage** – This field is to be used if the Insurer is providing less than 100% of the coverage. If left blank, the Department will assume that the insurer is covering 100% of the risk. REMEMBER: A separate SL-1905 must be submitted for each insurer if coverage is provided by more than one insurer.
- **Coverage Type Code** – These coverage codes are the same business line codes used by insurers when they make their financial reports to the NAIC. This information will assist the Department in determining what premiums should be included in the §705 fire department subsidy calculations. The field is a drop-down list. If none of the codes on the list applies, select "00" for "Other" at the bottom of the list and manually enter information in the Description of Coverage field.
- **Description of Coverage** – This field is for brief information describing the type of coverage being provided. The field is linked to the Coverage Type Code field and is auto-filled if a Code is selected, or the description can be manually entered.
- **Amount or Limits of Coverage and Premium Charged** – This information helps the Department to ensure that the SL business was "not exported for the purpose of securing advantages either as to: a.) A lower premium rate than would be accepted by an authorized insurer; or b.) Terms of the insurance contract." §1904 (3)

➤ *Total Premium, Premium Tax and Fees Information*

§1917 provides for a tax on surplus line insurance, to be computed on premiums received for insurance contracts, exclusive of sums collected to cover federal and state taxes and examination fees, if any. This tax is at the same rate as applies to premiums for like kinds of insurance written by authorized insurers -- 1.75% plus .25% (18 Del. C., §§702 & 707), for a total tax rate of 2%. According to 18 Del. C. §2703, the definition of premium includes, "Any 'assessment,' or any 'membership,' 'policy,' 'survey,' 'inspection,' 'service' or similar fee or other charge in consideration for an insurance contract..."

In the Coverage Information section, details including the amount of premium that the insurer charges for each type of coverage (*Ex. Property – casualty – excess flood, etc.*) within the policy should be reported separately whenever possible. List separately, in the fields under the heading "Describe Fees," any fees that are added to the amount charged by the insurer as premium. Include a brief description of each fee type along with the fee amount. *For example, "Inspection Fee -- \$10.00"*

NOTE: This section is "grayed-out" on the form because it has calculated fields that cannot be manually changed. Total Policy Premium is calculated by adding the amounts entered on each Coverage line. Total Additional Fees is calculated by adding the amounts entered for each Fee type. Total Taxable Premium is calculated by adding the Total Policy Premium and the Total Additional Fees, and Premium Tax is calculated by multiplying Total Taxable Premium by 2%.

Step 3. File any required Endorsements and Other Update Forms as necessary if the original policy changes during the policy period.

There are two fundamental types of changes that must be reported to the Department after an original filing has been submitted:

- Replacement of a Binder number with a Policy number – If the original SL-1905 was made using a Binder number, it is essential that the SLB later provide the Policy number that replaces the binder number.
- Premium-bearing endorsements to a policy, as well as and any non-premium bearing changes as listed in this section.

Use the *Binder/Policy Number Replacement Form*, SL-1908, to report a policy number that replaces a binder number that was already submitted to the Department. The SL-1908 must be submitted as soon as a policy number becomes available. This is critical to proper record keeping for both the SLB and the Department because the policy number is the unique number used to lookup and track all filings.

A subsequent *Surplus Lines Notice of Insurance Transaction*, SL-1905, must be submitted within 30 days of the effective date of the change whenever any of the following changes occurs during the policy period:

- Change in policy premium (additional or returned) – This is especially important when an endorsement is issued showing return premium. The Department will not allow a credit nor refund any premium tax for a change in a policy if it has no prior record for the policy.
- Change in the Named Insured
- Change in Location of Risk – for placements with multiple risk locations, indicate if the location with the highest exposure has changed.
- Change in Limits
- Change or revision to the Policy Number (other than a policy rewrite)
- Change in the Policy Period

IMPORTANT: When filing the SL-1905 for endorsements, use the original policy number and add a hyphen and sequential endorsement number. *For example, if the original policy number is CGL-123456, and you are filing a second endorsement change, enter CGL-123456-2.*

Reported revisions to any policy must be clearly explained and the original policy number must be referenced. Endorsements to existing policies do not require a *Statement of Diligent Effort*, Form SL-1904. Be sure that the policy for which an endorsement is being issued has already been reported to the Department. Do not send endorsements before the original filing.

Step 4. Adhere to Filing Instructions to avoid having submissions returned or otherwise delayed by the Department.

The Department gathers and analyzes an enormous amount of information regarding SL business in the State of Delaware. It is essential that the information be submitted in the correct format. This manual has been provided to instruct SL brokers and office staff in proper filing procedures. A filing could be returned or delayed if any information is missing from the document being submitted or if any of the following mistakes is made:

- a) The Department has no previous record of an original policy
- b) The SLB or business entity is not properly licensed
- c) The carrier is not an eligible SL insurer
- d) The location of risk is not in Delaware
- e) Either or both of the compliance checkboxes on the SL-1905 are not checked

IMPORTANT: Failure to comply with filing instructions may result in assessment of penalties.

Step 5. Submit the Quarterly Premium Tax Report (Form SL-1917) and remit premium taxes as instructed.

The SL-1917 form is a paper filing that summarizes the SL business placed (and reported electronically) during the preceding calendar quarter and reports the amount of premium tax due on that business. The form must be signed by the SLB. The SL-1917 form is due on or before April 30, July 30, October 30 and January 30 each year. Premium tax payment should be remitted with the SL-1917. **REMEMBER:** Taxable premium *includes* fees.

Step 6. Submit the Annual Surplus Lines Premium Tax Summary Report (Form SL-1916) on or before March 1 each year.

Often referred to as the “SLB annual,” this report summarizes all business placed and premium taxes paid during the next preceding calendar year. The report shows the aggregate premiums charged, the aggregate amount of premiums returned to policyholders, and the net taxable premiums. The report also requires a summary of premiums written, broken down by location of risk for the three counties in Delaware and the City of Wilmington, to assist in the calculation of fire company distributions. This report fulfills the requirements of §1916.

IMPORTANT: All individual SL brokers, regardless of business volume, must file the SL-1916 and SL-1917 tax forms. So called “No business” or “Zero” reports are required.

QUESTIONS

Questions or comments regarding the contents of this manual should be directed to Ann.Fletcher@state.de.us, or you may call 302-674-7300 and ask for the Surplus Lines section.

Special Circumstances

Courtesy Filings – The Department defines a courtesy filing as a submission of forms or taxes from a Delaware licensed surplus lines broker as a “courtesy” to an agent/producer/broker who has placed insurance with an unauthorized, eligible surplus lines insurer, but is not licensed as a SLB in this State. These types of Courtesy Filings are not acceptable – **with one exception**.

Delaware law states that insurance coverage eligible for export to surplus lines must be placed with an eligible surplus lines insurer through a surplus lines broker duly licensed as such in accordance with Chapter 19. However, the Department understands that there are instances where an out-of-state insured seeks insurance coverage for risks located in one or more states other than Delaware, where the portion of the risk allocable to other states far exceeds the portion allocable to Delaware. In these cases an out-of-state SL broker – including wholesale brokers – places the coverage in the home state and may contact a DE licensed SL broker to make the required filings for the DE allocable portion of the risk, rather than obtain a Delaware SL license directly.

Considering this circumstance, the Commissioner has determined that courtesy filings will be accepted if **ALL** of the following conditions apply:

1. The insurer providing coverage must be on Delaware’s Eligible SL Insurer listing.
2. The procuring individual broker must be licensed for SL in his or her home state.
3. The coverage must be for a multi-state risk with incidental Delaware exposure.
4. Premium tax on the Delaware portion must be less than \$200.00.

If all of these conditions cannot be met, the out-of-state broker requesting the courtesy filing should obtain a Delaware SL license and submit the filing directly.

Under all other circumstances a surplus lines broker who makes filings or pays taxes as a “courtesy” to anyone not licensed as a surplus lines broker in this State is in violation of Sections 1904, 1905 and 1912 of the Delaware Insurance Code, and is subject to fines and penalties up to and including revocation of his or her license.

When filing the SL-1905 form for a courtesy filing as described above, the reporting SLB should indicate “Other – Courtesy Filing” as the *Transaction Type*, and identify the individual procuring SL broker information in the *Producing Agent* section. Enter the procuring SL broker’s home-state SL license number in the field labeled *DE Lic. #*.

IMPORTANT: This exception does not release the reporting SLB from any compliance requirements. The reporting SLB is still responsible for ensuring that the conditions for export listed in § 1904 are met.

General lines agents/producers are reminded that if they are unable to place a risk with an admitted carrier (either with whom they are appointed, or through another producer appointed by an admitted company), they must either utilize a Delaware-licensed surplus lines broker or obtain a Delaware SL license *before* they export the risk to surplus lines.

Multi-year placements – *Not permitted*. Due to the cyclical nature of the insurance marketplace, and the unique function the surplus lines market serves, the Department has determined that surplus lines policies should not have original policy periods of more than one year. The § 1904 Diligent Effort requirement applies to new and renewal business. Premium reported must be for the full coverage term regardless of any collection arrangements (i.e. monthly or quarterly installments).

Extension of coverage – Limited. Many short-term risks, usually with policy periods of 3 months or 6 months, are extended by endorsements for a variety of reasons. The Department will accept endorsements extending any policy period as an adjustment to the original policy provided the extension is less than 12 months. Otherwise, it becomes a new or renewal placement and is subject to the § 1904 Diligent Effort requirement.

Business Entity Filings – Forms and reports must be filed for individual licensed SL brokers. Only people can transact business, therefore, a business entity cannot report a SL insurance transaction – only an individual.

A business entity should not submit any policy filing (Notice of Transaction, endorsement, premium tax return, etc.) without listing the name and Broker ID of the individual SLB responsible for procuring the coverage.

When individual SL brokers are affiliated in any way (such as use of business entity name, letterhead, address, etc.) with an insurance business entity, the individual SLB must report using both their individual Broker ID and the Agency ID and should use the business entity address on their reports.

Although other agency personnel may make submissions on behalf of an individual SLB, only a duly licensed SLB may sign any SL policy documents (dec-page, binder, affidavit, etc.). These documents should not be signed by any other agency personnel.

The only filing required from a licensed business entity is the *Business Entity Report of Responsible Individual Surplus Lines Brokers*, Form SL-1706, referred to as the “Agency Annual”, due on or before March 1 each year. Business entities are held responsible for the conduct of the individual SLB(s) employed by or representing the agency. Individual SL brokers who are affiliated with a business entity are “linked” to the business entity’s license number. This form is used by business entities to report information listing the individual SL brokers employed by or representing the agency. The report also lists the aggregate volume of SL business written by each licensee during the calendar year. No policy detail information is required. The information in this report is used by the Department to match information reported by individual SL brokers and non-admitted insurers to monitor surplus lines insurance throughout the state.

Tax-Exempt premiums – Certain insurance premiums are considered to be exempt from the 2% surplus lines premium tax; however, the premium volume must still be reported to the Department. Coverage for the operations of public political subdivisions (government entities such as counties, municipalities, school districts, etc.) is exempt from the premium tax. It is important to note that not all policies procured for public political subdivisions are tax exempt. *For example, property coverage on a building that is owned by a university or liability coverage for a community-sponsored festival is not tax-exempt, but D&O or employment practices liability coverage would be tax-exempt.* If you are unsure as to whether a policy qualifies for tax-exempt status, contact the Insurance Department for guidance.

IMPORTANT: Tax-Exempt business may NOT be reported electronically using the Excel® SL-1905 form – a “paper filing” must be submitted **or**, if you are maintaining your files electronically, the Department will accept email with Adobe Acrobat® PDF or scanned images of the filing attached. Print the completed SL-1905 for the policy as you would any other placement but write “EXEMPT” in the premium tax field on the form. The form must be signed by the SLB. Attach a copy of the dec-page from the policy to the filing. This will enable the Department to verify the tax-exempt status of the policy. Follow the same procedure for any endorsements to the tax-exempt policy.

Risk Purchasing Groups – When coverage is procured on behalf of a Risk Purchasing Group (PG) it is not necessary to detail the amount of coverage for each member of the PG. The SLB should complete the required filings as for any other policy, but should list the PG as the insured. According Title 18, Ch. 80, the Risk Retention Act, taxes on premiums paid for coverage of risks resident or located in this State by a purchasing group or any members of the purchasing groups shall be:

“(1) Imposed at the same rate and subject to the same interest, fines and penalties as that applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(2) Paid first by such insurance source, and if not by such source by the agent or broker for the purchasing group, and if not by such agent or broker then by the purchasing group, and if not by such purchasing group then by each of its members.” (§ 8010)

Purchasing groups are required to file annual reports with the Department listing: their insurance carrier(s), the amount of premium for Delaware members written with each company, and (if applicable) the SLB responsible for procuring coverage for the PG from non-admitted insurers. The Department compares these reports to the SLB reports to ascertain whether premium tax has been paid properly.

Broker of Record Letters – When an account or policy is transferred from one SLB to another SLB – especially when the transfer takes place within the policy term – a letter notifying the Department of the change in brokers is required.

The Broker of Record letter must include the following information:

- Name and Broker ID for both the original SLB and the “new” SLB
- Name and Agency ID for the business entity
- Policy number
- Name of insured
- Reason for the transfer

Remittance of taxes – A tax of 2% is due on all insurance premiums written on Delaware risks. Surplus Lines Bulletin # 6, effective February 11, 2004, clarifies the Department’s definition of taxable premium to include associated policy fees. SL Bulletin # 6 also instructs all surplus lines licensees to “consistently include associated policy fees in the calculation of taxable premium, and submit payment of insurance premium taxes based on policy premium including policy fees as required in Title 18.”

Audits and Enforcement – This procedures manual was developed to give SL brokers and business entities information and instructions they need to help keep their business practices in compliance with the rules set forth by the Department. Records must be maintained at the SLB place of business and must be open to inspection by the Commissioner for 5 years after the effective date of the policy to which the records relate. According to 6 Del. C., §12A-112, records may be kept in electronic format. The information that must be retained in the SLB records is detailed in §1915 and Department Bulletins, as well as this manual. The Commissioner holds all surplus lines licensees strictly responsible for compliance. All surplus lines licensees are subject to such penalties as specified in §1918, or 18 Del. C. §106, and may also be ordered to appear for hearing to show-cause why their insurance license should not be revoked or otherwise subject to the penalties in 18 Del. C. §1712, for issues of non-compliance.

PART 4: FORMS AND INSTRUCTIONS

Remember the Commissioner's regulatory responsibilities?

- ✓ *Monitor transactions to ensure that the conditions in 18 Del. C., Ch. 19 are met*
- ✓ *Gather and analyze data pertinent to the insurance marketplace to identify deficiencies in coverage that may exist in the state*
- ✓ *Collect premium tax on gross written insurance premium*
- ✓ *Enforce surplus lines licensee compliance with established reporting requirements*

It is through reports and document filings submitted by the SLB that the Department accomplishes these duties. The Forms listed in the table below are **required** forms and must be submitted as instructed. Tables with detailed instructions for the completion of each of these forms, along with samples marked with reference numbers, are included on the following pages.

REQUIRED SURPLUS LINES FILING FORMS			
FORM NAME:	FORM NUMBER:	WHEN DUE:	SEND TO:
Statement of Diligent Effort	SL-1904	within 30 days of effective date of policy	Retain in SLB office records – DO NOT SUBMIT to Delaware Insurance Department
SL Notice of Insurance Transaction	SL-1905	within 30 days of effective date of policy or change	Send via email: SLExam@state.de.us
Binder/Policy Number Replacement	SL-1908	as soon as policy number is available	Delaware Insurance Department Attn: Surplus Lines Section 841 Silver Lake Blvd. Dover, DE 19904-2465
Business Entity Report of Responsible Individual Surplus Lines Brokers	SL-1706	on or before March 1 each year	Delaware Insurance Department Attn: Surplus Lines Section 841 Silver Lake Blvd. Dover, DE 19904-2465
SL Premium Tax Quarterly Summary Report	SL-1917	April 30 July 30 October 30 January 30	Delaware Insurance Department c/o National City Bank Choose either USPS or Courier address as instructed on Form
SL Premium Tax Annual Summary Report	SL-1916	on or before March 1 each year	Delaware Insurance Department c/o National City Bank Choose either USPS or Courier address as instructed on Form

In addition to submitting these reports with the Department as instructed, all SL brokers must maintain copies of the filings in their office records. According to 6 Del. C., §12A-112, records may be kept in electronic format. The records must be open to inspection by the Commissioner for 5 years after the issuance of the policy to which the records relate.

Any questions regarding SL filings should be directed to Ann Fletcher, Tax Coordinator, via email at Ann.Fletcher@state.de.us, or call 302-674-7300 and ask for the Surplus Lines section.

FORM SL-1904 – STATEMENT OF DILIGENT EFFORT

Delaware requires a **minimum** of three declinations from representatives of admitted insurers as evidence that a “diligent effort” to procure the coverage from admitted insurers was made prior to exporting the coverage to surplus lines. The declinations must come from insurers that are authorized to transact and actually writing that kind and class of insurance in this State but are not corporate affiliates of the SL insurer.

This form must be completed and signed by the individual licensee who represents the insured (producing agent or surplus lines broker).

If the producing agent is not licensed for surplus lines, this form must be completed and signed by the agent and *forwarded to the SL Broker*. If the SL Broker also acts as the producing agent, the SL Broker must complete and sign the form.

This form must be kept with the surplus lines broker's other records for the policy to which it relates and must be open to examination by the Commissioner at all times for 5 years after issuance of the coverage to which it relates. (§1915)

DO NOT mail this form to the Insurance Department.

**FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED.
REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1904**

Reference Number	Description	Instructions
1	Submitted By (select one)	Indicate whether the diligent effort to place the coverage with an admitted insurer was made by the producing agent or the SLB.
2	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
3	Policy Number	Enter the policy number or binder number.
4	Insurer Name	Enter the full name of the non-admitted insurance company providing coverage. Remember: Delaware law requires that surplus lines insurance be procured only from companies considered by the Department to be eligible insurers.
5	NAIC #	All insurance companies, including alien (offshore) insurers, are assigned a company code number by the NAIC. The NAIC # is included on the Bulletin # 5 Eligible Insurers List. The Department requires the NAIC # to identify the insurer.
6	Insured's Name and Address	Enter the name and address of the policyholder.
7	Policy term	Enter the dates coverage begins and ends in MM/DD/YYYY format. DO NOT use terms such as “continuous” or “until canceled”.
8	Amount (limits) of Insurance Property	Enter the Total Insured Value of the DE portion of property coverage provided in the policy in monetary (\$) format. If no property coverage is included, leave blank.

Reference Number	Description	Instructions
9	Amount (limits) of Insurance Casualty	Enter the General or Policy Aggregate amount of the DE portion of casualty coverage provided in the policy in monetary (\$) format. If no casualty coverage is included, leave blank.
10	Location of Risk	Enter the physical location of the risk (not necessarily the insured's address.) If there is more than one DE location, enter "Multiple locations".
11	Description of Coverage	Briefly describe the type of risk being covered and the coverage being provided. Ex. "Excess Flood"
12	Declinations	Enter the full name and NAIC # of three (3) admitted insurers that declined to provide coverage on this risk. Enter the Name and telephone number of the contact person from each declining insurer and briefly describe the reason for the declination. IMPORTANT: The Department requires the NAIC # to identify the insurer. The Department <u>will not accept</u> the name of a group of carriers (i.e. Chubb, AIG, Nationwide, Travelers, etc.). Enter the name and NAIC # of the specific admitted insurer that declined to insure the risk.
13	Agency Name	Type or print the name of the Agency as it appears on the DE business entity license.
14	Agency Lic. #	Enter the DE business entity license number.
15	Producer or SLB Name	Type or print the name of the individual licensee who made the diligent effort to procure the insurance from admitted insurers. REMEMBER: Delaware law requires that all parties taking part in a SL transaction must be licensed by the Insurance Department.
16	Individual Lic. #	Enter the DE insurance producer or SLB license number of the individual who made the diligent effort to procure the insurance from admitted insurers.
17	Signature and Date	The form must be signed by the individual producer or SLB listed on the form. Enter the signature date in MM/DD/YYYY format.



DELAWARE INSURANCE DEPARTMENT SURPLUS LINES STATEMENT OF DILIGENT EFFORT

Submitted by: (select one)

☐ PRODUCER☐ SL BROKER

Form SL-1904

v.06-2

DO NOT SUBMIT THIS FORM TO THE INSURANCE DEPARTMENT

POLICY NUMBER

3

SURPLUS LINES INSURER NAME

4

NAIC #

5

INSURED'S NAME AND MAILING ADDRESS:

Name:

6

Address:

POLICY TERM INFORMATION

Effective Date

7

Expiration Date

MM/DD/YYYY Format

MM/DD/YYYY Format

AMOUNT OF INSURANCE

Property \$

8

Casualty \$

9

LOCATION OF RISK

10

DESCRIPTION OF COVERAGE:

11

12 I declare under the penalties provided by law that I have made a diligent effort to procure the insurance coverage described above from licensed insurers which are authorized to transact the class of insurance involved and which accept, in the usual course of business, insurance on risks of the same class as the risk described above. Having been unable to secure such coverage, I have resorted to coverage with companies not licensed to operate in the State of Delaware and which are not under the jurisdiction of the Insurance Department of the State of Delaware.

Furthermore, this insurance was not exported for the purpose of securing lower rates than would be accepted by an authorized insurer or because of the terms of the contract.

Among the licensed insurers declining to insure this risk or declining to increase the amount of insurance on this risk, are the following:

1. Name & NAIC # of Insurer:

Name & Telephone # of Contact:

Reason for Declining:

13

2. Name & NAIC # of Insurer:

Name & Telephone # of Contact:

Reason for Declining:

3. Name & NAIC # of Insurer:

Name & Telephone # of Contact:

Reason for Declining:

I further attest that I have explained to the insured that the insurance described herein is being placed with an insurance company not authorized to do business in Delaware. The insured understands that the insurance company is not a member of the Delaware Insurance Guaranty Association and that Chapter 42 of the Delaware Insurance Code is not applicable to claimants or insureds of said company. As required in 18 Del. C., §1909, I have delivered to the insured evidence of the insurance upon which has been stamped:

"This insurance contract is issued pursuant to the Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department."

I declare that I have the insurance coverage here described was procured pursuant to Chapter 19 of Title 18, the Delaware Insurance Code, and that the information contained in this submission is true.

Name of Producer/ SL
Agency

14

(Type or print name of Agency)

DE Lic # of
Agency

15

Name of Producer/ SL
Broker

16

(Type or print name of Individual)

DE Lic #
Individual

17

Producer/ SL Broker
Signature

Sign Here

18

Date:

FORM SL-1905 – SL NOTICE OF INSURANCE TRANSACTION

General Overview of Using the MS Excel® Form SL-1905:

ALWAYS ENABLE MACROS – When you click on the link to open the Form, the program will warn you about macros and ask if you want to allow macros. **Always click “Yes”**. If macros are not enabled, the form will not function properly.

You’ll notice from the tabs at the bottom of the screen that the SL-1905 actually contains these 3 worksheets:

SL Transaction Notice

- Designed as a FORM for SL Broker use, this sheet can be printed to save in your files and/or give to the insured. This Form replaces the Broker Affidavit (old Form SLB-A1), the Broker Certificate (old Form SLB-C1), and the Broker of Record (Form SLB-R1).

Data Sheet

- Each SL Transaction Notice “form” becomes a new row – a new record – in this “Data Sheet” worksheet when you click the Update button.
- This sheet contains the links and programming that allows the form to function properly. You may view the data in this spreadsheet but should never delete records from it.

Eligible Companies

- This spreadsheet contains the list of unauthorized insurers considered by the Department to be eligible to transact surplus lines insurance in the state of Delaware. This sheet is “View Only” for your information.

Tip: When you click the link and open the Form for the first time, enter the Agency Information ONLY and save the otherwise empty form to your local drive under another name (for example: “DE SL-1905 Blank.xls”). This now becomes your “template” form. Each time you are ready to make a submission, open this template file.

Whenever you open the template file, IMMEDIATELY click “File” on the toolbar, select “Save As” and save the template as another name (for example: “SL-1905-01-15-07.xls” – using the form name and the date.) This will prevent overwriting the template. When you close the file at the end of each session, if the program asks, click “Yes” to save changes.

You may use “Tab” to move from one field to another, but the buttons, check boxes, and drop-downs must be clicked with the mouse to select them. *It is probably best to use the mouse to click on each field.*

The Surplus Lines Notice of Insurance Transaction must be submitted for **each** transaction, including premium-bearing endorsements, within 30 days after the effective date of the transaction. This Excel® Form may be emailed at any time and can be used to submit single or multiple transactions by following these steps. If you are submitting several Notices at the same time, enter the information for each transaction as instructed until finished then email the entire workbook. Be sure to print each form for your records before clicking the Reset button.

Tip: Always click the buttons in the order they appear on the form: **Update – Print – Reset.**

GENERAL INSTRUCTIONS FOR COMPLETING FORM SL-1905

1. Enter information in all applicable fields on the Form. You may make changes at any time until you click "UPDATE".
2. After checking for accuracy, click "UPDATE". This automatically updates the record in the data sheet. **IMPORTANT:** Only click the UPDATE button one time for each transaction. Clicking more than once will result in duplicate records.
3. Click "PRINT" to print a completed copy of the Form for your records and/or to deliver to the policyholder.
4. Click "RESET" to empty the contents of all fields except the reporting Agency information. You will be returned to the "Reporting SL Broker ID" field so you can begin entering information for another transaction.
5. Repeat Steps 1 through 4 for each transaction.
6. When you finish entering all transactions in the current submission, click "File" in the toolbar and select "Save" (since you already named the file at the beginning of the session, you do not need to "Save as".) or if you click the X to close the file, choose "Yes" when Excel® asks if you want to save.
7. Using your email program, attach the file to an email addressed to:
SLExam@state.de.us. The Excel® workbook will be emailed to the Department.

IMPORTANT: You may get a warning about attachments; click "Yes" to send anyway.

NOTE: The first line of all drop-down boxes is blank and manual entry is possible by clicking on the field itself (not the arrow) and typing the entry.

**FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED.
REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1905.**

Reference Number	Description	Instructions
1	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
2	SL Broker Identifier	Enter the Delaware Surplus Lines license number of the individual SL broker procuring coverage. IMPORTANT: All surplus lines licensees – individual brokers and business entities – must use their 7-digit Delaware surplus lines license number as their Broker ID or Agency ID on all Department forms. Although the Department retains SSN and FEIN in the tax data records, those numbers are no longer used as general identification numbers.
3	Name of SL Broker	Enter the full name of the individual SL broker procuring coverage as it appears on their DE license.

Reference Number	Description	Instructions
4	Agency Name and Mailing Address	Enter the business name and address for the individual SL Broker. All individual SL brokers that are affiliated in any way (such as use of Agency name, letterhead, address, etc.) with an insurance business entity should use the business entity Name and Address on all reports.
5	Contact Name, Email & Phone #	Enter the information for the person responsible for making filings to the Department. NOTE: This person does not have to be the SL Broker.
6	Agency Identifier and EIN	Delaware law requires both individuals and business entities be licensed for Surplus Lines. Enter the Delaware Surplus Lines license number <u>and</u> federal EIN of the Business Entity. (See SL Broker Identifier)
7	Producing Agent Information	Enter the Name, Address and Phone # of the insurance producer who has initial direct contact with the insured. If the SL Broker is also the producing agent, these fields DO NOT need to be completed. For reporting purposes, the Department defines "Producer" or "Agent" as any DE insurance licensee and "SL Broker" as a Producer or Agent who is also licensed for surplus lines.
8	Producing Agent DE* license number	Enter the Delaware license number of the producing agent. Delaware Law requires that <u>all</u> entities involved in procuring insurance for risks located in DE be licensed. * If making a "courtesy filing" as described in this manual, enter the <i>home state</i> SL license number of the out-of-state SLB who procured coverage for the multi-state risk with DE exposure.
9	Compliance checkmark #1	Click this checkbox to indicate that a Form SL-1904 has EITHER been received from the producing agent OR been completed by the SL Broker if the SL Broker is also acting as the producing agent. Form SL-1904 must be attached to other document records pertaining to the policy and must be retained in the SL Broker's file and available for inspection for 5 years. Remember: Checkboxes must be clicked to enter the check.
10	Type of Transaction	Click to indicate the type of transaction being reported. Select only one. Form SL-1905 is required for all premium-bearing endorsements. An endorsement must be sequentially numbered in the "Policy Number" field. (See instructions for Endorsements on page 10)
11	Changes	Briefly describe any changes are being made to the original policy or describe the type of transaction if "Other" is selected.
12	Name of Insured	Enter the name of the policyholder.

Reference Number	Description	Instructions
13	Address of Risk	Enter the complete physical address of the location of the risk (not necessarily the insured's address.) If there is more than one DE location, enter the address of the risk with the highest exposure, if possible. NOTE: A Post Office Box <i>only</i> is not acceptable.
14	Effective Date and Expiration Date	Enter the date coverage begins and ends. For endorsements, enter the dates any change to the policy begins and ends. For a cancellation with return premium, enter the original effective date of the policy and use the effective date of the cancellation as the Expiration date.
15	Policy Term	Enter the length of coverage in number of months. For endorsements, enter the number of months remaining. For cancellation, enter the number of months the coverage was in effect before cancellation. DO NOT use terms such as "continuous" or "until canceled".
16	Description of Risk	Briefly describe the type of risk being covered. If there is more than one risk location in DE and the address of the risk differs from the geographic location of the risk with the highest exposure, choose "Multiple Locations."
17	Geographic Location of Risk	Click to indicate where in the state the risk is located. If there is more than one location in DE, choose the location for the risk with the highest exposure. The Department uses this information as part of the calculation for the amount of state funding volunteer fire companies in each county and the city of Wilmington will receive each year. (18 <u>Del. C.</u> , § 705.)
18	Compliance checkbox #2	Click this checkbox to indicate that the surplus lines coverage has been procured in compliance with Delaware law and Insurance Department requirements.
19	SL Broker signature	When filing electronically, a live signature is not required. The SLB must sign the printed form retained in the office record and/or given to the insured as evidence of coverage.
20	Insurer Name	Select one from the drop down as indicated. If more than one insurance company is providing coverage for the same policyholder, Form SL-1905 must be submitted for each company involved in the transaction. This field is linked to the listing of Eligible Surplus Lines companies, but may be overwritten if necessary. Remember: Delaware law requires that surplus lines insurance be procured only from companies considered by the Department to be eligible insurers.

Reference Number	Description	Instructions
21	NAIC number	When the Insurer name is selected from the drop down, the NAIC number is automatically entered in this field. This helps the Department identify the company. All insurance companies, including alien (offshore) insurers, are assigned a company code number by the NAIC.
22	Policy Number	Enter the Policy Number or Binder Number. If filing an endorsement, enter the original policy number with the sequential endorsement number added. <i>For example, if the policy number is CGL-123456, and you are filing a second endorsement change, enter CGL-123456-2.</i> NOTE: If you submit the filing using a Binder number, you must provide the Department with the Policy number as soon as it becomes available to replace the Binder number. Use the Binder/Policy Number Replacement Form SL-1908 to notify the Department of the change.
23	Percent of Coverage	If more than one insurance company is providing coverage for the same policyholder, Form SL-1905 must be submitted for each company involved in the transaction. Enter the percent of the coverage that is being provided by each insurance company.
24	NAIC Coverage Type Code	Select from the drop down as indicated. This field is linked to a listing of business lines as defined by the NAIC, but may be overwritten if necessary. The Department uses this information to verify the amount of premium being written for each line of business used in the calculation of the fire company distribution in accordance with 18 <u>Del. C.</u> , § 705. List each coverage type included in the policy. For example “08 Fire – CML property” would be listed on one line and “5.2 Commercial Multiple Peril – liability” would be listed on the next line even though it is the same policy, issued by the same company.
25	Description of coverage type	When the NAIC coverage type code is selected from the drop down, the description is automatically entered in this field. If Other is selected or if no coverage code is applicable, enter a brief description of the type of coverage. For example: Using the example above, the first coverage type “08” will show “Fire” in the description field automatically, but “CML property” would be manually added into the description field.
26	Insurance amount	Enter the coverage limits in dollar amounts for each type of coverage contained in the policy.
27	Premium charged	Enter the amount of premium being charged for each type of coverage contained in the policy. For endorsements, enter additional premium amount. For cancellation, enter return premium amount.

Reference Number	Description	Instructions
28	Total Policy Premium and other calculated fields	The fields that are “grayed out” on the form are calculated fields and may not be overwritten. It is not necessary to enter an amount on all lines for the form to make the calculation.
29	Fees	Describe any fees associated with the policy that are charged to the insured. List the type and amount of the fee(s). Remember: Taxable premium includes all policy fees. The total amount of fees will automatically be entered in the field labeled “Additional Fees”
30	Action Buttons	<ul style="list-style-type: none"> • Use the “Update” button to complete entering the data from the form into the datasheet. • Use the “Print” button to print the form. ➔ ALWAYS PRINT A COPY OF THE COMPLETED FORM FOR YOUR RECORDS. • Use the “Reset” button to remove data from all fields except the Reporting Broker Information. This button was added to enable more than one policy to be reported at one time.
31	Department Contact	Please do not hesitate to email questions to the Department. Any questions regarding SL filings should be directed to Ann Fletcher, Tax Coordinator, at Ann.Fletcher@state.de.us , or you may call 302-674-7300 and ask for the Surplus Lines section.



DELAWARE INSURANCE DEPARTMENT
SURPLUS LINES
NOTICE OF INSURANCE TRANSACTION

To be submitted by the
**SURPLUS LINES
BROKER**

Form SL1905

v. 01.01.2006

1

REPORTING SL BROKER INFORMATION

Agency Name: 4
Address:
Contact Name: 5
Contact E-mail:
Contact Phone #:

Reporting SL Broker ID #: 2
Name of licensed SL Broker procuring coverage: 3
Agency ID #: 6
Agency EIN:

If the insured in this transaction was represented by another producing agent, then form SL1904 must be completed and received by the SL Broker. It must be retained by the SL Broker with this Notice and all other materials related to this policy. DO NOT submit form 1904 to the Department.

PRODUCING AGENT INFORMATION

Name: 7
Address:
Phone: DE Lic. #: 9

8 ☐ Check Here to indicate that a duly signed and completed Form SL1904 has been retained in the SL Broker file as directed.

10 TYPE OF TRANSACTION (select one)

☐ New Policy ☐ Renewal of Policy #:

(If Endorsement or Other explain briefly below)
☐ Endorsement ☐ Other

CHANGES (Explain changes to policy here) 11

INSURED'S NAME AND ADDRESS OF RISK:

Name: 12
Address: 13
Note: List Street Address -- PO Box only is not acceptable

POLICY TERM INFORMATION

Effective Date: 14 Expiration Date:
MM/DD/YYYY Format MM/DD/YYYY Format
Policy Term (in months): 15

DESCRIPTION OF TYPE OF RISK

16

GEOGRAPHIC LOCATION OF RISK (select one)

17

IMPORTANT

After conduct of a diligent search, the insurance coverage for the amount and kind requested by the insured cannot be obtained from an insurer admitted in Delaware, therefore the insurance contract for this insurance coverage is issued pursuant to Delaware Insurance Laws with the following insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department.
I declare under the penalties provided by law that I have procured the insurance coverage here described pursuant to Chapter 19 of Title 18, the Delaware Insurance Code, and that the information contained in this submission is true.

18 ☒ Check Here to indicate full compliance with 18 Del. C., Ch. 19 and Delaware Insurance Department Surplus Lines Bulletin Number 7.

19 Surplus Lines Broker Signature (18 Del. C., §1905)

INSURER NAME (select from eligible companies list)

20

NAIC #

21

POLICY NUMBER

22

% of Coverage

23

NAIC Code	Description of Coverage (List Individually)	Insurance Amount	Premium Charged
<input type="text"/> 24	<input type="text"/> 25	<input type="text"/> 26	<input type="text"/> 27
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			

Describe Fees: 29
\$
\$
\$

Total Policy Premium \$ 28
Additional Fees \$
Total Taxable Premium \$
DE Surplus Lines Tax Rate ☒ 0.02
Premium Tax \$

Update

Print

Reset

25

31

Direct questions to: Ann.Fletcher@state.de.us

FORM SL-1908 – BINDER/POLICY NUMBER REPLACEMENT FORM

This form must be submitted to the Department when a policy number becomes available from the insurer for a policy previously submitted with a binder or certificate number. The information from this form is used by the Department to update the previously submitted SL-1905 record for the policy. It is essential that binder or certificate numbers be replaced with the policy number as soon as possible. The policy number serves as the unique identifier for each policy in all Department records.

As with all other forms, the SL-1908 must be kept with the surplus lines broker's other records for the policy to which it relates and must be open to examination by the Commissioner at all times for 5 years after issuance of the coverage to which it relates. (§1915)

**FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED.
REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1904**

Reference Number	Description	Instructions
1	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
2	Instructions	REMEMBER: This form should be submitted as soon as a policy number is available.
3	Name of Insured	Enter the name of the policyholder as originally reported.
4	Binder Number	Enter the Binder Number reported on the original SL-1905.
5	Effective Date and Expiration Date	Enter the date coverage begins and ends as originally reported.
6	Policy Number	Enter the policy number <i>exactly</i> as issued by the insurance company, including any spaces, hyphens, etc.
7	Agency Name	Enter the name of the business entity with which the reporting individual SLB is affiliated (if applicable) as originally reported.
8	Agency ID	Enter the Delaware SL license number of the Business Entity.
9	SL Broker Name	Enter the name of the individual SLB as originally reported.
10	SL Broker ID	Enter the Delaware SL license number of the individual SL broker originally reported as the SLB procuring coverage.



DELAWARE INSURANCE DEPARTMENT
SURPLUS LINES
BINDER/POLICY NUMBER REPLACEMENT FORM

To be submitted by the

**SURPLUS LINES
BROKER**

Form SL-1908

v.06-1

2

THIS FORM MUST BE SUBMITTED TO THE DELAWARE INSURANCE DEPARTMENT WHEN A POLICY NUMBER BECOMES AVAILABLE FOR A PLACEMENT PREVIOUSLY SUBMITTED WITH ONLY A BINDER OR CERTIFICATE NUMBER PER 18 Del. C., § 1908(d)

NAME OF INSURED:

(As Originally Reported)

3

4

BINDER OR CERTIFICATE NUMBER:

NEW POLICY NUMBER:

6

ORIGINAL POLICY TERM INFORMATION

Effective Date

5

Expiration Date

MM/DD/YYYY Format

MM/DD/YYYY Format

Name of SL Agency

7

(Type or print name of Agency)

**DE Lic # of
Agency**

8

Name of SL Broker

9

(Type or print name of Individual Surplus Lines Broker as originally filed)

**DE Lic #
Individual**

10

FORM SL-1706 – BUSINESS ENTITY REPORT OF AFFILIATED INDIVIDUAL SURPLUS LINES BROKERS

The Department developed the annual ***Business Entity Report of Responsible Individual Surplus Lines Brokers, Form SL-1706***, to be used by business entities to report information listing the Delaware-licensed individual surplus lines brokers employed by or representing the agency. The form also reports the aggregate volume of SL business written on Delaware risks by each licensee during the calendar year. Additional pages may be attached if necessary.

This form, referred to as the “Agency Annual”, is now designated as Form SL-1706 followed by the abbreviated calendar year. The form is updated annually and should be obtained from the Department’s website for submission on or before March 1 each year. No policy detail information is required. The information from this annual form is matched to information reported by individual SL brokers and the non-admitted insurers. No premium tax is remitted with this report, but the information reported helps the Department to monitor Delaware SL business and ascertain whether premium tax on that business has been properly remitted.

**FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED.
REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1706**

Reference Number	Description	Instructions
1	Type of Report	Indicate whether the report is an original filing or an amendment.
2	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
3	Instructions, Due Date, Mailing Address	The form contains brief general completion instructions. The form must be <i>received</i> at the address listed on or before March 1 each year. Please note that the Department does not accept a postmark date. Failure to timely file may result in penalties.
4	Agency Name and Address	Enter the name and mailing address of the business entity.
5	Contact Name, Email Phone & Fax #	Enter the information for the person responsible for making filings to the Department. NOTE: This person does not have to be a SL Broker.
6	Agency ID	Enter the Delaware SL license number of the Business Entity.
7	Agency FEIN	Enter the federal employer identification number of the Business Entity.
8	Home State	Enter the 2 letter abbreviated name of the state in which the business entity holds its resident BE license or where the primary place of business is located.
9	Individual SL Broker Name(s)	Enter the name of each individual SLB affiliated with the Agency. Remember: If an individual SLB identifies the Agency in any way (such as use of Agency name, letterhead, address, etc.) in the course of business, the Department considers that SLB affiliated with the Agency.
10	SL Broker ID	Enter the Delaware SL license number of each individual SLB.
11	Premium	Enter the aggregate amount of SL premium generated by that SLB during the calendar year in association with the Agency. If no premium was written by the SLB, enter zero (\$0.00)
12	Total Premium	Enter the aggregate amount of SL premium generated by all SLB affiliated with the Agency during the calendar year.



**STATE OF DELAWARE DEPARTMENT OF INSURANCE
BUSINESS ENTITY REPORT OF RESPONSIBLE
INDIVIDUAL SURPLUS LINES BROKERS
FOR THE CALENDAR YEAR 2006, DUE MARCH 1, 2007**

Original Report ☐ 1
Amended Report ☐

**SL Business Entity
Form SL-1706-06** 2

To be used by insurance agencies to report information listing individual surplus lines brokers employed by or representing the agency and the aggregate volume of surplus lines business written on risks located in Delaware by each licensed SL broker during the calendar year in association with the agency.

THIS REPORT IS FOR SURPLUS LINES BUSINESS ONLY.

No policy detail information is required on this report, only the Delaware surplus lines premium volume for each SL broker and the agency total. List all SL brokers affiliated with the agency whether or not they procured any business. If no SL business was written, enter zero. This information will allow the Department to match insurance company reports to monitor surplus lines business throughout the state.

REMINDER: Each individual surplus lines broker is required to submit a separate Surplus Lines Broker Premium Tax Annual Summary Report (Form SL-1916-06) 3

This SL-1706-06 report must be completed and returned to the address at the right on or before March 1, 2007.

**Delaware Insurance Department
Attn.: Surplus Lines
841 Silver Lake Blvd.
Dover, Delaware 19904-2465**

AGENCY SURPLUS LINES (SL) INFORMATION AND MAILING ADDRESS

Agency Name: _____ 4
Agency Address: _____
City - State - Zip + 4: _____
Contact Person: _____ 5
E-mail: _____
Phone #: _____ Fax #: _____
Agency ID: (DE SL Lic. #) _____ 6
Agency FEIN: _____ 7
Home State (abbr.): _____ 8
Questions should be directed to:
Ann Fletcher
Tax Coordinator
E-mail: Ann.Fletcher@state.de.us

AFFILIATED INDIVIDUAL SURPLUS LINES BROKERS

List all Surplus Lines Brokers who were affiliated with your Agency during the calendar year 2006.

INDIVIDUAL'S SURPLUS LINES BROKER NAME	INDIVIDUAL'S DELAWARE SL LICENSE NUMBER	SURPLUS LINES PREMIUMS WRITTEN
1. _____		\$ _____
2. _____ 9	_____ 10	_____ 11
3. _____		
4. _____		
5. _____		
6. _____		
7. _____		
8. _____		
9. _____		
10. _____		
TOTAL PREMIUMS WRITTEN DURING 2006		\$ _____ 12

ATTACH ADDITIONAL PAGES AS NEEDED

SURPLUS LINES PREMIUM TAX FORMS MAILING AND REMITTANCE GENERAL INSTRUCTIONS

The Delaware Insurance Department has established a lockbox operation with National City Bank for receipt of premium taxes and fees, including SL premium taxes. The Department selected National City's Chicago lockbox operation for receiving and processing tax payments in part because of its centralized location for receiving mail and deliveries from across the country. Lockbox personnel receive payments and premium tax forms, date stamp and process the packages, electronically image all documents, deposit payments into the Department's account, and forward data and materials to the Department.

Send the premium tax forms SL-1917 and SL-1916, along with a check (if applicable), to one of the addresses listed below. **DO NOT** send premium tax forms or checks directly to the Department.

Make all checks payable to "*Delaware Insurance Department*".

If using U.S. Postal Service (regular mail):	If using Courier or Express Service (overnight):
Delaware Insurance Department c/o National City Bank 6610 Reliable Parkway Chicago, IL 60686	Delaware Insurance Department c/o National City Bank Attention: Lockbox # 6610 5635 S. Archer Ave. Chicago, IL 60638-1656

NOTE: Premium tax forms (and payment if applicable) must be **received** on or before the due date listed for the forms. The Department considers the date a filing is received by the lockbox as the submission date. The Department does not accept a postmark date. An administrative penalty for failure to timely file will be assessed if filings are received after the due dates.

Surplus Lines Premium Tax Forms: There are two types of premium tax reports that SL brokers are required to submit:

- Form SL-1917 – the Quarterly Premium Tax Report, due on or before April 30, July 30, October 30 and January 30 each year.
- Form SL-1916 – the SL Premium Tax Annual Summary Report, due on or before March 1 each year.

Specific instructions for completing these premium tax forms are described on the following pages.

IMPORTANT: Only premium tax forms and payments should be sent to the National City Bank lockbox address selected. **DO NOT** send other SL broker submissions to the lockbox.

Any questions regarding SL premium tax submissions should be directed to Ann Fletcher, Tax Coordinator, by email at Ann.Fletcher@state.de.us, or you may call 302-674-7300 and ask for the Surplus Lines section.

FORM SL-1917 – QUARTERLY PREMIUM TAX REPORT

To simplify surplus lines broker reporting responsibilities, the Department has replaced the Surplus Lines Broker Monthly Report (old form SLB M-1) with this quarterly tax report in conjunction with the electronic SL-1905 Notice of Insurance Transaction. The SL-1917 form is a paper filing that summarizes the SL business reported electronically using SL-Form 1905 during the preceding calendar *quarter*, and shows the amount of premium tax due on that quarter's business. Use of the SL-1917 form will become effective for business placed after December 31, 2006.

For example: The report due on April 30, 2007 should summarize the total premium reported as placed in the months of January, February and March of 2007; the July report, the months of April, May and June; the October report, the months of July, August, and September; and the January 30, 2008 report would summarize premium reported for the months of October, November and December 2007.

The due dates for the quarterly form were selected to allow SL brokers and their staff 30 days after the quarter-end to review their files and ensure that all business transacted during that three-month period has been properly reported to the Department using the SL-1905 Notice of Insurance Transaction. Premium tax payment for each calendar quarter should be remitted with the SL-1917.

REMEMBER: Taxable premium *includes* fees.

The form must be signed by the SLB and notarized. The SL-1917 form is due on or before April 30, July 30, October 30 and January 30 each year. The Department does not accept a postmark date; the forms must be **received** on or before the due dates. An administrative penalty for failure to timely file will be assessed if filings received after the due dates.

FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED. REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1917

Reference Number	Description	Instructions
1	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
2	Reporting Period	Enter the calendar quarter during which the business being summarized in the report was written. <i>For example, January 1, 2007 through March 31, 2007 for the April 30, 2007 report.</i>
3	Mailing Instructions	Select the appropriate lockbox address depending on the delivery method chosen. For regular U.S. postal service mail, select the Reliable Parkway address. For courier delivery (UPS, FedEx, etc.) select the Archer Avenue address. IMPORTANT: The Reliable Parkway address is a PO box location and cannot accept courier deliveries. Filings sent via courier to that address will be returned to sender and late penalties may be assessed.
4	SL Broker ID	Enter the Delaware SL license number of each individual SLB.
5	Agency ID	Enter the Delaware SL license number of the Business Entity.
6	Name of SL Broker	Enter the full name of the individual SL broker procuring coverage as it appears on their DE license.

Reference Number	Description	Instructions
7	Agency Name and Address	Enter the name and mailing address of the business entity with which the SLB is affiliated. This is the “business address” for the SLB.
8	Contact Name and Email	Enter the information for the person responsible for making filings to the Department. NOTE: This person does not have to be the SL Broker.
9	Report Type	Indicate which quarterly report is being submitted.
10	Affiant Name	Print or type the full name of the individual SL broker responsible for procuring the business being summarized in the report.
11	Zero business checkbox	Check this box if no SL business was transacted by the individual SLB during the reporting period.
12	Total Premium	Enter the aggregate amount of direct written SL insurance premium subject to premium tax that was generated during the reporting period (calendar quarter). Include all premium reported using SL-1905 during the reporting period and add any additional premium that may not have been reported previously. REMEMBER: Taxable premium includes fees.
13	Returned Premium	Subtract the aggregate amount of SL premium that was returned to policyholders during the reporting period.
14	Taxable Premium	Enter the aggregate amount of taxable SL premium generated by that SLB during the reporting period.
15	Premium Tax Due	Enter the amount of premium tax due for the reporting period. The premium tax should be calculated by multiplying the Total Taxable Premium amount by .02 (2%). Pay this amount.
16	Signature	The SL-1917 premium tax report must be signed by the individual SL broker responsible for procuring the business being summarized in the report (the Affiant).
17	Notarization	The report and signature of the responsible SLB must be affirmed by a duly appointed Notary Public, and a Notary Seal must be affixed to the report.



**DELAWARE INSURANCE DEPARTMENT
QUARTERLY PREMIUM TAX REPORT
FOR THE CALENDAR QUARTER**

To be submitted by the
**SURPLUS LINES
BROKER**
FORM SL-1917

v. 06-01

MAILING INSTRUCTIONS

The Delaware Insurance Department has established a lock-box operation with National City Bank for receipt of premium taxes and fees. Send this SL-1917 form, along with a check (if applicable) to one of the addresses listed below. **DO NOT** send this form or checks directly to the Department. **NOTE:** Premium tax filings must be received on or before the appropriate due date. The Insurance Department does not accept postmark dates. An administrative penalty will be assessed for filings received after the due dates.

Attach Check Here

If using U.S. Postal Service (regular mail):

Delaware Insurance Department
c/o National City Bank
6610 Reliable Parkway
Chicago, IL 60686

If using Courier or Express Service (overnight):

Delaware Insurance Department
c/o National City Bank
Attention: Lockbox # 6610
5635 S. Archer Ave.
Chicago, IL 60638-1656

REPORTING BROKER INFORMATION

SL Broker ID #: _____ Agency ID #: _____
SL Broker Name: _____
Agency Name: _____
Mailing Address: _____
Tax Contact Name: _____
Email Address: _____

SELECT REPORT TYPE:

☐ **Q107** Due April 30, 2007
☐ **Q207** Due July 30, 2007
☐ **Q307** Due October 30, 2007
☐ **Q407** Due January 30, 2008

Questions should be directed to:

Ann Fletcher
Premium Tax Coordinator
E-mail: Ann.Fletcher@state.de.us

AFFIDAVIT AND PREMIUM TAX REPORT

KNOWN ALL MEN BY THESE PRESENT THAT _____, Agent / Broker, who being duly sworn, deposes and states that the contracts for insurance reported by me to the Delaware Insurance Department during the period indicated above represent all such business transacted by me for this period and were issued pursuant to Chapter 19, Title 18, Delaware Code, and are subject to the following conditions for export:

- (a) That as a surplus lines broker, duly licensed in the state of Delaware, I procured all policies referred to herein from eligible surplus lines insurers;
- (b) That the full amount of insurance required was not procurable, after diligent effort was made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this State, and the amount of insurance exported was only the excess over or other than the amount procurable from authorized insurers;
- (c) That the insurance was not exported for the purpose of obtaining a lower premium rate than would be accepted by an authorized insurer; and
- (d) That the terms of the insurance contracts are not more favorable than would be accepted by an authorized insurer.

☐ CHECK HERE IF NO SURPLUS LINES BUSINESS WAS TRANSACTED DURING THIS CALENDAR QUARTER

Total premium reported for this quarter \$ _____
Less premium returned to policyholder - _____
Total taxable premium for this quarter \$ _____
Premium tax rate x _____ .02
Total premium tax due this quarter \$ _____

↑ PAY THIS AMOUNT ↑

Make check payable to "Delaware Insurance Department"

Sign Here

Signature of Surplus Lines Broker

Sworn to and subscribed before me this _____ day of _____, A.D.

Notary Signature

My Commission Expires

Notary Seal

FORM SL-1916 – SL PREMIUM TAX ANNUAL SUMMARY REPORT

To more closely align its contents to the requirements listed in 18 Del. C., §§1916 and 1917, the *Surplus Lines Broker Premium Tax Annual Summary Report* was completely revised in 2004. This form, previously known as SLBAnnual, is now designated as Form SL-1916 followed by the abbreviated calendar year. The form is updated annually and should be obtained from the Department's website for submission on or before March 1 each year. The form must be signed by the SLB and notarized. Any annual premium tax report that is not on the most current form will be rejected and the reporting broker may be subject to administrative penalties for late filing.

IMPORTANT: All individual surplus lines brokers, regardless of business volume, must file this form. So called "No business" or "Zero business" annual reports are required.

**FOLLOW THESE INSTRUCTIONS FOR EACH FIELD AS INDICATED.
REFERENCE NUMBERS CORRESPOND TO NUMBERS ON THE SAMPLE FORM SL-1916**

Reference Number	Description	Instructions
1	Type of Report	Indicate whether the report is an original filing or an amended report.
2	Version of Form	Each Form is identified in the upper right hand corner and numbered according to the section of Title 18 to which it applies. Always be sure you are using the most current version of a Form.
3	Mailing Instructions	Select the appropriate lockbox address depending on the delivery method chosen. For regular U.S. postal service mail, select the Reliable Parkway address. For courier delivery (UPS, FedEx, etc.) select the Archer Avenue address. IMPORTANT: The Reliable Parkway address is a PO box location and cannot accept courier deliveries. Filings sent via courier to that address will be returned to sender and late penalties may be assessed.
4	Name of SL Broker	Enter the full name of the individual SL broker procuring coverage as it appears on their DE license.
5	Agency Name and Address	Enter the name and mailing address of the business entity with which the SLB is affiliated. This is the "business address" for the SLB.
6	Contact Name, Email Phone & Fax #	Enter the information for the person responsible for making filings to the Department. NOTE: This person does not have to be a SL Broker.
7	SL Broker ID	Enter the Delaware SL license number of each individual SLB.
8	Agency ID	Enter the Delaware SL license number of the Business Entity.
9	Home State	Enter the 2 letter abbreviated name of the state in which the individual SLB holds his or her resident SL license.
10 Line 1	Total Premium	Enter the aggregate amount of direct written SL insurance premium subject to premium tax that was generated during the calendar year. Include any additional premium that may not have been reported previously. REMEMBER: Taxable premium includes fees.

Reference Number	Description	Instructions
11 Line 2	Returned Premium	Subtract the aggregate amount of SL premium that was returned to policyholders during the calendar year.
12 Line 3	Net Premium	Enter the aggregate amount of taxable SL premium generated by that SLB during the reporting period.
13 Lines 4 & 5	Premium Tax Due	Enter the amount of premium tax due for the reporting period. The premium tax should be calculated by multiplying the Total Taxable Premium amount by .02 (2%).
14 Line 6	Amount Paid Previously	Subtract the amount paid previously with quarterly premium tax reports.
15 Line 7	Net Premium Tax Due	Enter the amount of premium tax due that was not previously paid. Pay this amount. NOTE: If the net annual premium tax amount is less than zero, a refund check will be issued by the Department. DO NOT apply any annual refund amount to future tax liability.
16	Total Premium by Geographic Location	Enter the aggregate total premium for all types of coverage – including property types listed in §705 – as allocated to each of the counties in DE and the City of Wilmington based on the location of risk.
17	“Fire” Premium by Geographic Location	Enter the aggregate total premium for the property coverage types of coverage listed in §705 ONLY as allocated to each of the counties in DE and the City of Wilmington based on the location of risk.
18	Affiant Name	Print or type the full name of the individual SL broker responsible for procuring the business being summarized in the report.
19	Signature	The SL-1916 premium tax report must be signed and dated by the individual SL broker responsible for procuring the business being summarized in the report (the Affiant).
20	Notarization	The report and signature of the responsible SLB must be affirmed by a duly appointed Notary Public, and a Notary Seal must be affixed to the report.



STATE OF DELAWARE DEPARTMENT OF INSURANCE
SURPLUS LINES
PREMIUM TAX ANNUAL SUMMARY REPORT
FOR THE CALENDAR YEAR 2006, DUE MARCH 1, 2007

Original Report ☐ 1

Amended Report ☐ 2

Form SL-1916-06

MAILING INSTRUCTIONS

The Delaware Insurance Department has established a lock-box operation with National City Bank for receipt of premium taxes and fees. Send this SLB-1916 form, along with a check (if applicable) to one of the addresses listed below. **DO NOT** send this form or checks directly to the Department. **NOTE:** Premium tax filings must be received on or before the appropriate due date. The Insurance Department does not accept postmark dates. An administrative penalty will be assessed for filings received after the due dates.

Attach Check Here

If using U.S. Postal Service (regular mail):

Delaware Insurance Department
c/o National City Bank
6610 Reliable Parkway
Chicago, IL 60686

If using Courier or Express Service (overnight):

Delaware Insurance Department
c/o National City Bank
Attention: Lockbox # 6610
5635 S. Archer Ave.
Chicago, IL 60638-1656

SURPLUS LINES (SL) BROKER INFORMATION AND MAILING ADDRESS

SL Broker Name: 4

Agency Name: 5

Agency Address: 6

City - State - Zip + 4: 7

Tax Contact Name: 8

E-mail: 9

Phone #: 10

Fax #: 11

Broker ID #: (DE Lic. #) 12

Agency ID #: 13

Home State (abbr.): 14

Questions should be directed to:

Ann Fletcher
Tax Coordinator

E-mail: Ann.Fletcher@state.de.us

GROSS PREMIUMS TAX SUMMARY

1. Total Surplus Lines Premiums Written during 2006: \$ 15

2. LESS: Premiums returned during 2006 \$ 16

3. Net Surplus Lines Premiums Written (Line 1 - Line 2): \$ 17

4. Premium Tax Rate (2%) X .02

5. TOTAL Premium Tax Due (Line 3 x Line 4): \$ 18

6. LESS: Total Amount Prepaid during 2006: -

7. Net Premium Tax Due (Line 5 - Line 6): \$ 19

Attach payment for this amount. →

REPORT OF GROSS PREMIUMS FOR STATE SUPPORT OF FIRE COMPANIES

In accordance with 18 Del. C., §705(a), all premiums written in Delaware (less return premiums) under the lines listed below must be reported in this section. The portion of allocable premiums written, as determined by **location of risk**, must be reported for each of the four geographical regions within the State. **THIS IS NOT A TAX.** The State of Delaware uses this information to determine the amount of financial support volunteer fire companies receive from the State.

Applicable "Fire" Lines of Business:
(as specified in 18 Del. C., §705(a))

Fire, Extended Coverage, Other Allied Lines, Homeowner (package policy), Commercial Multiple Peril, Growing Crops,
Ocean Marine, Inland Marine, Automobile Physical Damage and Aircraft Physical Damage

TOTAL PREMIUMS
(Including "Fire" Premiums)

"FIRE" PREMIUMS
(as listed in §705)

City of Wilmington \$ 20

New Castle County (outside the City of Wilmington) \$ 21

Kent County \$ 22

Sussex County \$ 23

2006 TOTAL \$ 24

AFFIDAVIT

I hereby verify, in accordance with 18 Del. C., §1916 (a), that the information contained in this report is a true and correct statement of all surplus lines insurance transacted by me in the state of Delaware during the calendar year 2006.

Signed this date: 25

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Notary Seal

Sworn to and subscribed before me this date.

Printed Name of SL Broker (as listed above)

Sign Here

Signature of Reporting SL Broker

Notary Public

PART 5: REFERENCE

GLOSSARY OF TERMS

General insurance industry terms and definitions have been adapted as they specifically relate to surplus lines and as they apply to the state of Delaware. All statutory references are to Title 18, Delaware Insurance Code, and definitions with a “§” section reference symbol at the beginning of the definition are quoted from that section.

TERM	DEFINITION
Admitted	Authorized by a state's insurance department to do business in that state. A certificate of authority is issued to admitted companies by that state. <i>Syn: authorized, licensed</i>
Admitted company	An insurance company licensed and authorized to do business in a state by the state's insurance department.
Admitted market	The market provided by insurers that are admitted to do business in a state or jurisdiction. <i>Syn: traditional, standard</i>
Affidavit	A voluntary, written statement of fact made under oath or affirmation before an authorized official.
Agency	A group of persons working together to sell and service insurance policies based on contractual agreements with insurance companies. <i>Syn: business entity, firm, brokerage, office, etc.</i>
Alien insurer	§ 102 (8) An "alien" insurer is a foreign insurer formed under the laws of any country other than the United States of America, its states, districts, commonwealths and possessions. <i>Syn: in SL sometimes referred to as "off-shore"</i>
Authorized	§ 102 (10) An "authorized" insurer is one duly authorized to transact insurance in this State by a subsisting certificate of authority issued by the Commissioner. <i>Syn: admitted, licensed</i>
Binder	An agreement issued usually in writing, but occasionally orally, by an agent or an insurer providing temporary coverage until a policy can be issued.
Binding authority	The contractual power of an insurance producer to bind one of his or her insurers to a risk.
Broker	§ 1903 (a) "broker" as used in this chapter and unless context otherwise requires, means a surplus line broker duly licensed as such under this chapter.
Broker of record	The broker designated and authorized to conduct and handle specified insurance business on behalf of the policyholder.
Business Entity	§ 1702 (f) a "business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity. <i>Syn: agency, firm, brokerage, office, etc.</i>
Capacity	The maximum amount of insurance coverage available from a single insurer for a class of insurance or a single risk based on the insurer's financial ability to accept risk.
Carrier	An entity that assumes or carries insurance risk. <i>Syn: insurer, insurance company</i>
Certificate of Authority	A state-issued document empowering an insurer to write insurance contracts and perform certain business within its borders. <i>Syn: license</i>
Commissioner	§ 102 (4) "Commissioner" means the Insurance Commissioner of this State.

TERM	DEFINITION
Date of issue	The date that a contract was issued by the insurer, which may be different from the effective date. <i>Syn: issuance date, issue date</i>
Declination	An insurance underwriter's rejection of an application for insurance
Department	§ 102 (5) "Department" means the Insurance Department of this State [Delaware]
Domestic company	§ 102 (6) A "domestic" insurer is one formed under the laws of this State [Delaware].
Domicile	The state (or country) where an insurer is legally incorporated. The company is considered a domestic insurer in that state, a foreign insurer in another state in which it does business, and an alien insurer in another country.
Effective date	The date on which coverage under an insurance policy or bond begins. <i>Syn: inception date</i>
Eligible insurer	Non-admitted company approved, but not authorized, by the Commissioner to transact surplus lines business in this State. NOTE: per § 1907 "(b) the status of eligibility, if granted by the Commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary."
Endorsement	A written amendment to a policy that is part of the insurance agreement. In case of conflicting provisions, an endorsement supersedes the main part of the policy. If two endorsements contradict each other, the one with the latest date prevails.
Evidence of coverage	A policy, certificate or summary provided by an insurer to an insured, which describes at least the essential contract provisions.
Excess and surplus lines broker	A specially licensed insurance producer who procures coverage on difficult to place risks from non-admitted insurers when coverage for that risk is not available through the admitted market. <i>Syn: excess line broker, surplus line broker, E&S broker</i>
Excess lines	The same as surplus lines. "Surplus lines" is the preferred term to avoid confusion with excess insurance. <i>Syn: excess & surplus lines, E&S</i>
Expiration date	The date on which an insurance policy terminates or ceases to provide coverage.
Export	§ 1903(b) To "export" means to place in an unauthorized insurer under this surplus lines law insurance covering a subject of insurance resident, located or to be performed in Delaware.
Export List	A list of class or classes of insurance coverage or risks which the Commissioner has by order declared eligible for export, generally and without compliance with the provisions of §§ 1904(2), 1904(3) and 1905 Title 18.
Fiduciary	A person occupying a position of special trust and confidence, usually one holding the funds or items of value of another under personal care, custody, or control.
Foreign insurer	§ 102 (7) A "foreign" insurer is one formed under the laws of any jurisdiction other than this State
Guaranty Fund	A fund created by statute that guarantees the payments of claims for state-domiciled insurance companies that become insolvent. The fund is created with assessments against the other insurers operating in that state.

TERM	DEFINITION
Home State	§ 1702 (h) "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.
Inception date	The date on which coverage under an insurance policy begins. <i>Syn: effective date</i>
Ineligible insurer	An insurance company not deemed eligible by the Commissioner to transact business in this state and not included on the SL Bulletin # 5 list. <i>Syn: unapproved or unauthorized insurer</i>
Insurance	§ 102 (2) "Insurance" means a contract whereby one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, called "risks," or to pay or grant a specified amount or determinable benefit in connection with ascertainable risk contingencies or to act as surety.
Insurance company	An organization that has been chartered by a governmental entity to transact the business of insurance. <i>Syn: insurer, insurance carrier</i>
Insurance Producer	§ 1702 (i) "Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate contracts of insurance or annuity or the lines of authority authorized within the scope of such license. For the purposes of this title the terms "insurance agent," "insurance broker," and "insurance consultant" shall be used interchangeably with the term "insurance producer." <i>Syn: agent</i>
Insured	The person whose insurable interest is protected under an insurance policy <i>Syn: policyholder</i>
Issue Date	The date that a contract was issued by the insurer, which may be different from the effective date. <i>Syn: date of issue, issuance date</i>
License	§ 1702 (j) "License" means a document issued by this State's Insurance Commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier. NOTE: When referring to a "licensed" insurance company, the license is called the certificate of authority.
NAIC	National Association of Insurance Commissioners – a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and five U.S. territories. The association's overriding objective is to assist state insurance regulators in protecting consumers and helping maintain the financial stability of the insurance industry by offering financial, actuarial, legal, computer, research, market conduct and economic expertise.
Non-admitted	Not authorized by a state's insurance department to do business in that state. A certificate of authority is not issued to admitted companies by that state. <i>Syn: unauthorized, unlicensed</i>
Non-admitted insurer	An insurance company not authorized to do business in a particular state.

TERM	DEFINITION
Non-admitted market	Insurers doing business in a state where they are not authorized to sell and service their policies. Usually, such insurers can sell insurance only through surplus lines brokers. <i>Syn: surplus lines</i>
Placement	The process of binding or underwriting an insurance policy once an agent or broker has found a company to accept the risk. <i>Also: place, placed, places</i>
Policy	§ 2702 "Policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers, which are a part thereof.
Policy period	The period during which an insurance policy provides coverage. <i>Syn: policy term</i>
Policyholder	The party in whose name an insurance policy is issued. <i>Syn: insured</i>
Premium	§ 2703 "Premium" is the consideration for insurance by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium.
Producer	An insurance agent, solicitor, broker, or any other person directly involved in the sale of insurance.
Return premium	The portion of the premium returned to an insured as the result of cancellation, rate adjustment, deletion or reduction in coverage or an error in calculation of the initial premium.
Risk	The property or person exposed to damage or injury.
Surplus lines	Insurance placed with an insurer that is not admitted (not authorized) to do business in a particular state, but permitted because coverage is not available through authorized insurers. Insurance commissioners often maintain a list of eligible surplus lines insurers. <i>Syn: excess lines, non-admitted, unauthorized, unlicensed, specialty lines (rare)</i>
Transacting insurance	§ 103 In addition to other aspects of insurance operations to which provisions of this title by their terms apply, "transact" with respect to a business of insurance includes any of the following: (1) Solicitation or inducement; (2) Negotiations; (3) Effectuation of a contract of insurance; (4) Transaction of matters subsequent to effectuation and arising out of such a contract.
Term	The length or period of time during which an insurance policy or bond is in force.
Unauthorized insurance	Insurance written by an insurer not licensed by the country or state where the coverage is provided. <i>Syn: surplus lines</i>
Unauthorized insurer	An insurer neither licensed nor authorized as a surplus lines insurer or a reinsurer neither licensed nor approved in a particular jurisdiction. An insurance company not authorized to do business in a particular state.
Underwriter	An individual skilled in the process of selecting risks for an insurance company.

DELAWARE SURPLUS LINES LAW

Note: This version of 18 Del. C., Chapter 19 was taken from the [Online Delaware Code](http://www.delcode.state.de.us/index.htm) prepared by the Division of Research of Legislative Council of the General Assembly with the assistance of the Government Information Center, under the supervision of the Delaware Code Revisors and the editorial staff of LexisNexis. Refer to www.delcode.state.de.us/index.htm for the most current version of the Delaware Insurance Code.

TITLE 18

Insurance Code

PART I

Insurance

CHAPTER 19. SURPLUS LINES

§ 1901. Short title.

This chapter constitutes and may be cited as the "surplus lines" law. (18 Del. C. 1953, § 1901; 56 Del. Laws, c. 380, § 1.)

§ 1902. Exemptions.

This surplus lines law shall not apply to life insurance, health insurance or reinsurance or to the following insurances when so placed by licensed general lines agents or brokers or surplus line brokers of this State:

- (1) Wet marine and transportation insurance;
- (2) Insurance on subjects located, resident or to be performed wholly outside this State or on vehicles or aircraft owned and principally garaged outside this State;
- (3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations;
- (4) Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability, other than worker's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft. (18 Del. C. 1953, § 1902; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1903. Definitions; "broker," "export."

(a) "Broker," as used in this chapter and unless context otherwise requires, means a surplus line broker duly licensed as such under this chapter.

(b) To "export" means to place in an unauthorized insurer under this surplus lines law insurance covering a subject of insurance resident, located or to be performed in Delaware. (18 Del. C. 1953, § 1903; 56 Del. Laws, c. 380, § 1.)

§ 1904. Conditions for export.

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from unauthorized insurers, subject to the following conditions:

(1) The insurance must be procured through a licensed surplus line broker;

(2) The full amount of insurance required must not be procurable, after diligent effort has been made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this State, and the amount of insurance exported shall be only the excess over or other than the amount procurable from authorized insurers;

(3) The insurance must not be so exported for the purpose of securing advantages either as to:

a. A lower premium rate than would be accepted by an authorized insurer; or

b. Terms of the insurance contract. (18 Del. C. 1953, § 1904; 56 Del. Laws, c. 380, § 1.)

§ 1905. Broker's affidavit.

At the time of effecting any such surplus line insurance, the broker shall execute an affidavit, in form prescribed or accepted by the Commissioner, setting forth facts from which it can be determined whether such insurance was eligible for export under § 1904 of this title. The broker shall file this affidavit with the Commissioner within

30 days after the insurance was so effected. (18 Del. C. 1953, § 1905; 56 Del. Laws, c. 380, § 1.)

§ 1906. Open lines for export.

(a) The Commissioner may by order declare eligible for export, generally and without compliance with the provisions of §§ 1904(2), 1904(3) and 1905 of this title, any class or classes of insurance coverage or risk for which the Commissioner finds, after a hearing of which notice was given to each insurer authorized to transact such class or classes in this State, that there is not a reasonable or adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the Commissioner.

(b) The broker shall file with or as directed by the Commissioner a memorandum as to each such coverage placed by him/her in an unauthorized insurer, in such form and context as the Commissioner may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

(c) The broker or a licensed Delaware agent of the authorized insurer or a general lines broker may also place with authorized insurers any insurance coverage made eligible for export generally under subsection (a) above, and without regard to rate or form filings which may otherwise be applicable as to the authorized insurer. As to coverages so placed in an authorized insurer, the premium tax thereon shall be reported and paid by the insurer as required generally under Chapter 7 of this title. (18 Del. C. 1953, § 1906; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1907. Eligible surplus line insurers.

(a) A broker shall not knowingly place surplus line insurance with an insurer that is unsound financially or that is ineligible under this section.

(b) The Commissioner shall from time to time publish a list of all surplus lines insurers deemed by him/her to be eligible currently, and shall mail a copy of such list to each broker at his/her office last of record with the Commissioner. This subsection shall not be deemed to require the Commissioner to determine the actual financial condition

or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the Commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect the broker shall restrict to the insurers so listed all surplus line business placed by him/her.

(c) An insurance company eligible to write surplus lines insurance pursuant to subsection (b) of this section may maintain offices in this State subject to the provisions of this chapter and to such regulations as the Commissioner may prescribe from time to time. (18 Del. C. 1953, § 1907; 56 Del. Laws, c. 380, § 1; 57 Del. Laws, c. 351; 70 Del. Laws, c. 186, § 1.)

§ 1908. Evidence of the insurance; changes; penalty.

(a) Upon placing a surplus line coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer or, if such policy is not then available, the surplus line broker's certificate. Such a certificate shall be executed by the broker and shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than 1 insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

(b) No broker shall issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer, unless he/she has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

(c) If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate, or in any other material respect as to the insurance evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the

current status of the coverage and the insurers responsible thereunder.

(d) If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his/her certificate as hereinabove provided, upon request therefor by the insured the broker shall as soon as reasonably possible procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the broker's certificate theretofore issued.

(e) Any surplus line broker, who knowingly or negligently issues a false certificate of insurance or who fails promptly to notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection (c) of this section, shall, upon conviction, be subject to the penalty provided by § 106 of this title or to any greater applicable penalty otherwise provided by law. (18 Del. C. 1953, § 1908; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1909. Endorsement of contract.

Every insurance contract procured and delivered as a surplus line coverage pursuant to this law shall have stamped upon it, initialed by or bearing the name of the surplus line broker who procured it, the following:

"This insurance contract is issued pursuant to the Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department." (18 Del. C. 1953, § 1909; 56 Del. Laws, c. 380, § 1.)

§ 1910. Surplus line insurance valid.

Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this law shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers. (18 Del. C. 1953, § 1910; 56 Del. Laws, c. 380, § 1.)

§ 1911. Liability of insurer.

(a) As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus lines insurance law, and if the premium thereon has been received by the surplus line broker who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage, and the insurer shall be liable to the insured as to losses covered by such insurance and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

(b) Each unauthorized insurer assuming a surplus line risk under this surplus lines insurance law shall be deemed thereby to have subjected itself to the terms of this section. (18 Del. C. 1953, § 1911; 56 Del. Laws, c. 380, § 1.)

§ 1912. Surplus line brokers; licensing.

(a) Any person, while licensed in this State as a resident or nonresident producer for general lines, which includes all lines of authority defined in Chapter 17 of this title except life insurance, variable annuity and title insurance, who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker.

(b) Application for the license shall be made to the Commissioner on forms as designated and furnished by the Commissioner.

(c) The license fee shall be as specified in § 701 (fee schedule) of this title.

(d) The license and licensee shall be subject to the applicable provisions of Chapter 17 (Agents, Brokers, Consultants, Adjusters, Appraisers and Limited Representatives) of this title. (18 Del. C. 1953, § 1912; 56 Del. Laws, c. 380, § 1; 73 Del. Laws, c. 69, § 1.)

§ 1913. Suspension, revocation of broker's license.

(a) Subject to § 1733 (termination, suspension of certificate of authority) of this title, the Commissioner may also suspend or revoke any surplus line broker's license:

(1) If the broker fails to file the annual statement or to remit the tax as required by §§ 1916 and 1917 of this title; or

(2) If the broker fails to maintain an office in this State, or to keep the records, or to allow the Commissioner to examine his/her records as required by this law, or if he/she removes his/her records from the State; or

(3) If the broker places a surplus line coverage in an insurer other than as authorized under § 1907 of this title.

(b) The procedures provided by Chapter 17 of this title for suspension or revocation of licenses shall apply to suspension or revocation of a surplus line broker's license.

(c) Upon suspending or revoking the broker's surplus line license the Commissioner shall also suspend or revoke all other licenses of or as to the same individual under this title. (18 Del. C. 1953, § 1913; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1914. Broker may compensate agents and brokers.

A licensed surplus line broker may accept and place surplus line business for any insurance agent or broker licensed in this State for the kind of insurance involved, and may compensate the agent or broker therefor. (18 Del. C. 1953, § 1914; 56 Del. Laws, c. 380, § 1.)

§ 1915. Records of broker.

(a) Each broker shall keep in his/her office in this State a full and true record of each surplus line coverage procured by him/her, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him/her, and such of the following items as may be applicable:

(1) Amount of the insurance;

(2) Gross premium charged;

(3) Return premium paid, if any;

(4) Rate of premium charged upon the several items of property;

(5) Effective date of the contract and the terms thereof;

(6) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by such insurer if less than the entire risk;

(7) Name and address of the insured;

(8) Brief general description of the property or risk insured and where located or to be performed; and

(9) Other information as may be required by the Commissioner.

(b) The record shall be open to examination by the Commissioner at all times within 5 years after issuance of the coverage to which it relates. (18 Del. C. 1953, § 1915; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 69, § 2.)

§ 1916. Annual statement of broker.

(a) Each broker shall on or before the 1st day of March of each year file with the Commissioner a statement verified by the broker of all surplus line insurance transacted by him/her during the preceding calendar year.

(b) The statement shall be on forms as prescribed and furnished by the Commissioner and shall show:

(1) Gross amount of each kind of insurance transacted;

(2) Aggregate gross premiums charged;

(3) Aggregate of returned premiums paid to insureds;

(4) Aggregate of net premiums; and

(5) Additional information as required by the Commissioner. (18 Del. C. 1953, § 1916; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1917. Tax on surplus lines.

(a) At or before the time specified in § 702 of this title for payment of premium tax and estimated payments, each broker shall remit to

the State Treasurer through the Commissioner a tax on surplus line insurance subject to tax transacted by him/her with unauthorized insurers during the next preceding calendar year as shown by his/her annual statement filed with the Commissioner. The tax shall be computed on premiums received, exclusive of sums collected to cover federal and state taxes and examination fees, if any, and at the same rate as applies to premiums for like kinds of insurance written by authorized insurers under this title.

(b) If a surplus line policy covers risks or exposures only partially in this State, the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this State. (18 Del. C. 1953, § 1917; 56 Del. Laws, c. 380, § 1; 66 Del. Laws, c. 382, § 6; 70 Del. Laws, c. 186, § 1.)

§ 1918. Failure to file statement or remit tax; penalty.

If any broker fails to file his/her annual statement or fails to remit the tax provided by § 1917 of this title prior to the 1st day of April after the tax is due, and, if in the Commissioner's opinion such failure is without just cause, he/she shall be liable for a fine of \$25 for each day of delinquency commencing with the 1st day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the Commissioner in any court of competent jurisdiction. Any fine collected by the Commissioner shall be paid to the State Treasurer and credited to the General Fund. (18 Del. C. 1953, § 1918; 56 Del. Laws, c. 380, § 1; 70 Del. Laws, c. 186, § 1.)

§ 1919. Legal process against surplus line insurer.

(a) An unauthorized insurer shall be sued, upon any cause of action arising in the State under any contract issued by it as a surplus line contract pursuant to this law, in the Superior Court of the State.

(b) Service of legal process against the insurer may be made in any such action by service of 2 copies thereof upon the Commissioner and payment of the service of process fee specified in § 701 (fee schedule) of this title. The Commissioner shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the Commissioner shall in like manner mail a copy of the process to the broker through whom such insurance was procured, or to the insurer at its principal place of business, addressed to the

address of the broker or insurer, as the case may be, last of record with the Commissioner. Upon service of process upon the Commissioner and mailing of the same in accordance with this provision, the Court shall be deemed to have jurisdiction in personam of the insurer.

(c) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section and designating the person to whom the Commissioner shall mail process as provided in subsection (b) of this section. (18 Del. C. 1953, § 1919; 56 Del. Laws, c. 380, § 1.)

NOTICE: The Delaware Code appearing on this site was prepared by the Division of Research of Legislative Council of the General Assembly with the assistance of the Government Information Center, under the supervision of the Delaware Code Revisors and the editorial staff of LexisNexis, includes all acts up to and including 75 Del. Laws, c. 313, effective June 27, 2006.

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SURPLUS LINES BULLETINS

The Surplus Lines Bulletins on the following pages are in ascending chronological order (oldest to newest). All insurance related Bulletins, including Surplus Lines Bulletins, are available on the Department's website at: www.delawareinsurance.gov

Bulletin #5 is a list of insurers deemed eligible to place surplus lines insurance in Delaware. Because the list is updated quarterly a copy of the Bulletin has not been included in this manual.

REMEMBER: It is the SL broker's responsibility to check and make sure the SL insurer is included on the listing of eligible SL insurers published by the Department prior to placing any business with that insurer. Always check the website for the most current version of the List of Eligible Surplus Lines Insurers.

Bulletin #7, effective December 21, 2006, supersedes and replaces Bulletin #1 in its entirety. Bulletin #1 has been included for reference only.

DONNA LEE H. WILLIAMS
INSURANCE COMMISSIONER



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Department of Insurance

SURPLUS LINES BULLETIN NO. 1

PRESCRIBED SURPLUS LINES FORMS: PURPOSE: FILING

Original No. 69-2
Amended April 15, 1992

The Delaware Insurance Department makes available certain forms applicable to the operation of Surplus Lines business pursuant to 18 Del. C., Chapter 19. Below is a full explanation of each form, and it is suggested that careful scrutinizing be given to these forms in order to avoid any complications.

The purpose of these forms is to keep accurate records for the determination of what insurance is eligible for export and to ascertain applicable taxes. Also, the information gathered will help the Department to identify any deficiencies in the insurance business in this State.

BROKERS AFFIDAVIT - FORM SLB-A1:

At the time that each and every surplus lines insurance is effected, the Surplus Lines Broker, who assist in issuing such insurance, shall execute an affidavit setting forth facts from which it can be determined whether such insurance is eligible for export under the Surplus Lines Laws. This affidavit shall be filed with the Insurance Department not more than 30 days after the effective date of the insurance. This form may be reproduced as needed.

SURPLUS LINES BROKER'S CERTIFICATE - FORM SLB-C1:

Upon placing surplus line coverage, the broker shall promptly issue and deliver to the insured as evidence of coverage either the policy, as issued by the insurer; or, if the same is not available, a Surplus Lines Broker's Certificate. Such certificate shall be executed by the broker and contain therein all information and material pertinent to the risk. Such certificate shall contain the name and address of the insurer and the insured, description and location of the risk, coverage, conditions and terms of the insurance, premiums and rates charged, and tax collected. If there is more than one insurer sharing the risk, the name, address and proportion of the risk shall be included.

This certificate shall not be issued until the broker has confirmation from the insurer that such insurance has been accepted and is in effect. It should be noted that after the issuance of such a certificate, any material change in the coverage or conditions on the risk will immediately necessitate the reissuance of a corrected and updated certificate reflecting the new conditions of the coverage.

The submission of a true copy of said form on an occurrence basis shall be deemed in compliance with Section 1906(b), which requires that the Surplus Lines Broker shall file a memorandum as to each such coverage placed by him in an unauthorized insurer.

If and when a policy for such insurance becomes available, the broker shall immediately replace the certificate with the policy. A true copy of each certificate will be kept on file at the office of the broker. Any issuance of such certificate contrary to the provisions governing same shall be subject to the penalties as set forth in Section 1908(e) or where other laws may apply. The attached certificate may be reproduced as needed.

ENDORSEMENT OF CONTRACT:

As required by Section 1909, each insurance contract issued on a surplus lines basis shall have stamped upon it the following: "This insurance contract is issued pursuant to Delaware Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Delaware Insurance Department." This stamp shall also be initialed by or bear the name of the issuing broker.

BROKER'S RECORD - FORM SLB-R1:

Pursuant to Section 1915, each Surplus Lines Broker shall keep in his office in this State a full and true record of all surplus lines transactions. The attached record sheet shall serve as a model for the information that is required to be kept. Such record shall be a true record of each surplus lines coverage affected. It shall contain such of the following items as may be applicable:

1. Amount of the insurance;
2. Gross premium charged;
3. Return premium paid, if any;
4. Rate of premium charged upon the several items of property;
5. Effective date of the contract and the terms thereof;
6. Name and address of each insurer on the direct risk and the percentage of risk assumed by each insurer if less than the entire risk is being insured;
7. Name and address of the insured;
8. Brief general description of the property or risk insured and where located or to be performed; and
9. Other information to be required by the Commissioner.

PENALTIES:

In addition to any prescribed denial, suspension or revocation of license, anyone convicted or abridging the provisions may be subject to the penalties in Section 1913.

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INSURANCE COMMISSIONER

State of Delaware



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Department of Insurance

SURPLUS LINES BULLETIN NO.2

REQUIREMENTS FOR ELIGIBLE SURPLUS LINES INSURERS

Original No. 69-3
Amended April 15, 1992

No surplus lines broker shall place any insurance with any unlicensed insurer which is not then an eligible surplus lines insurer. No unlicensed insurer shall be or become an eligible surplus lines insurer unless declared eligible by the Commissioner in accordance with the following conditions:

1. A licensed surplus lines broker must request the Commissioner, in writing, to declare the particular unlicensed insurer eligible.

2. The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.

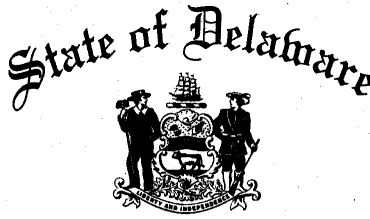
3. No insurer shall be eligible, the management of which is considered by the Commissioner to be incompetent or untrustworthy, or lacking in sufficient insurer managerial experience, or which the Commissioner has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions, or other insurance or business relationships with any entity whose business operations may be or have been detrimental to the interests of policyholders, stockholders, investors, creditors, or the public.

(A) The Commissioner shall from time to time publish a list of all currently eligible surplus lines insurers, and shall mail a copy thereof to each licensed surplus lines broker at his office last of record with the Commissioner.

(B) An eligible surplus lines insurer shall furnish at least annually to the Commissioner an annual financial statement in a form acceptable to the Commissioner. If at any time the Commissioner has reason to believe that any unlicensed insurer then on the list, of eligible surplus lines insurers is impaired financially, or no longer meets the requirements for eligibility as set forth above, he shall declare such insurer no longer an eligible surplus lines insurer. If the Commissioner determines, after a hearing thereon of which reasonable notice was given to all licensed surplus lines brokers that an insurer currently eligible as a surplus lines insurer has willfully violated the laws of Delaware, or has failed to make reasonably prompt settlement of just claims for losses and/or return premiums he may declare such insurer no longer an eligible surplus lines insurer. The Commissioner shall promptly mail notice of all such declarations to each surplus lines broker at his address last of record with the Commissioner.

(C) Pursuant to 18 Del. C. Section 1907(b), nothing in this section shall be deemed to impose on the Commissioner any duty or responsibility to determine the actual financial condition or claims practices of any unlicensed insurer; and the status of being an eligible surplus lines insurer, if granted by the Commissioner, shall be construed to mean only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary.

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Department of Insurance
SURPLUS LINES BULLETIN NO. 3

**ELIGIBLE SURPLUS LINES INSURERS QUALIFICATIONS
UNDER DELAWARE SURPLUS LINES LAW**

Original No. 69-4
Amended April 15, 1992

No foreign or alien insurer shall be declared eligible as a surplus lines insurer in Delaware unless a completed application is received and approved by the Commissioner. The application shall consist of the following materials:

1. Copy of Insurer's Charter or similar document and all amendment(s), addition(s), change(s), and deletion(s) hereto originally certified by the Director of Insurance, Superintendent of Insurance, Insurance Commissioner, jurisdiction of Insurance's or similar proper official of the amendment(s), addition(s), change(s), and deletion(s) thereto.
2. Copy of the Insurer's Certificate of Authority or similar document indicating and setting forth its authority or power to issue policies and insure risks in the jurisdiction in which they are incorporated, formed or organized and that in its place of incorporation, formation or organization it has actually issued such policies and insured such risks.
3. A certified or authenticated copy of the latest Annual Financial Report or Statement as submitted, filed and signed by the proper officers of the Insurer to the insurance regulatory authority or other governmental authority requiring such Financial Report or Statement of the jurisdiction where incorporated, formed or organized. Such certification or authentication of the aforesaid Financial Report or State shall be made by the proper official of the insurance regulatory authority or similar governmental authority requiring such. If the insurer's financial statement is expressed in a language other than English, both the English and the non-English copy shall be provided. The aforesaid latest Annual Financial Report or Statement shall be furnished at least annually to the Insurance Commissioner of the State of Delaware.
4. A copy of the latest official Report of Examination (as distinguished from the latest Annual Financial Report or Statement mentioned in No. 3 hereof) of the Insurer conducted by the insurance regulatory authority or similar governmental authority requiring such examination and certified by the proper official of such authority.
5. The Insurer shall in writing designate the proper individual in its employ who is directly and actively in charge of and responsible for handling any and all insurance claims whatsoever and to whom all correspondence regarding such claims may be directed. Any personnel changes affecting such previously designated individual shall be reported to the said Insurance Commissioner and indicate the present designated individual responsible for and in charge of handling such insurance claims.
6. The Insurer shall in writing designate the particular individual in its employ or otherwise to whom all lawful process served upon the said Insurance Commissioner in accordance with Section 1919 may be forwarded. Any personnel or business relation change affecting to whom the aforesaid lawful process shall be forwarded, shall be immediately reported to the said Insurance Commissioner and the new individual to whom said lawful process shall be forwarded shall be designated. The aforesaid designated individual, partnership, association, corporation or similar entity or designated representative to whom process shall be forwarded must maintain his or its legal residence, domicile or offices in the United States.
7. A certified statement and declaration from the licensed surplus lines broker setting forth the proposed kinds or types of insurance coverage and kind of types of risk that the Insurer intends to write and insure.
8. Minimum financial requirements for an Insurer are based upon the classes or types of insurance which the Insurer is fully chartered to transact. (Such requirements for stock insurance companies are determined in accordance with the provisions of Chapter 5). The insurer must have surplus as to policyholders of not less than the amount required of a like foreign insurer licensed in Delaware.

9. The premium rate at which insurance is placed in an unlicensed insurer is not lower than the lowest published rate which has been approved by the said Insurance Commissioner for use by any licensed insurer.

10. In the event that during the term of any insurance policy of contract there shall be any change in the unlicensed insurer or in the distribution of the risk among two or more insurers with or without the consent of the insured, the said Insurance Commissioner must be immediately notified by the surplus lines broker to that effect.

11. The unlicensed insurer must be currently a licensed insurer in the state of its domicile as to the kind or kinds of insurance which it proposed to provide. In addition, it must have been (i) such insurer for not less than three full years preceding, or (ii) must be a subsidiary of an already eligible surplus lines insurer which has been so eligible for a period of not less than one full year preceding, or (iii) must be a subsidiary of an insurer licensed in Delaware which has been so licensed for a period of not less than one full year preceding.

12. Every policy, cover note, or other instrument of insurance delivered to the insured, and placed with an unlicensed insurer in accordance with the aforesaid Code shall contain a Service of Suit Clause in the form prescribed below:

SERVICE OF SUIT CLAUSE

"It is agreed that in the event of the failure of the Insurer(s)/or Underwriters hereon to pay any amount claimed to be due hereunder, the Insurer(s)/or Underwriters hereon, at the request of the Insured (or reinsured), will submit to the jurisdiction of any Court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such Court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such Court.

It is further agreed that service of process in such suit may be made upon the Insurance Commissioner of the State of Delaware and that in any suit instituted under this contract Insurer(s) and/or Underwriters will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

The above-named is authorized and directed to accept service of process on behalf of the Insurer(s)/or Underwriters in any such suit and/or upon the request of the Insured (or reinsured) to give a written undertaking to the Insured (or reinsured) that it or they will enter a general appearance upon the Insured(s)/or Underwriters' behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States of America, which makes provision therefore, the Insurer(s)/or Underwriters hereon hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the Insured (or reinsured) of any beneficiary hereunder arising out of this contract of insurance (or reinsurance), and hereby designates the above-named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

13. Submit biographical sketches of Insurer's individual officers, directors, persons in managerial control and like individuals indicating length of affiliation with present Insurer, previous affiliations with other insurance companies, associations, exchanges or like entities; any affiliation with any insurance company, association, exchange or like entity which is now defunct, had been or is now being liquidated, dissolved or declared bankrupt; and any pending criminal indictment or conviction.

FOR ALIEN INSURERS ONLY:

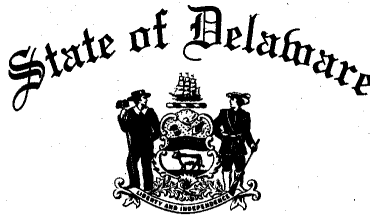
14. Copy of the Trust Fund Agreement concerning the Trust Fund which the Insurer must have and maintain in a bank or trust company which is a member of the United States Federal Reserve System. The terms of the aforesaid Trust Fund Agreement shall be reasonably adequate for the protection of all of the Insurer's policyholders in the United States. The aforesaid trust fund must be in an amount of not less than four hundred thousand dollars (\$400,000). In the case of a group of individual unincorporated insurers, such trust fund shall be not less than fifty million dollars (\$50,000,000). The Insurance Commissioner of the State of Delaware may require larger trust funds than those set forth above if in the judgment the volume of business being transacted or proposed to be transacted warrants such larger amounts. To the extent of the minimum amounts as provided for above, such trust funds shall consist of United States currency, public obligations of the United States or a political subdivision thereof or other

investments of the same general character and quality as are required for like funds of the same class of Insurers licensed in Delaware.

15. Prepare and submit immediately duly certified and authenticated copies of any and all proposed amendment(s), change(s), addition(s), and deletion(s) whatsoever to the Trust Fund Agreement to the Insurance Commissioner of the State of Delaware. Any such amendment(s), change(s), addition(s), and deletion(s) to the Trust Fund Agreement must have the written consent and approval of the said Insurance Commissioner prior to becoming effective.

16. The Trustee of the aforesaid Trust Fund shall give written verification of the amount initially deposited and presently on deposit by the Insurer in the Trust Fund. The Trustee shall likewise immediately give written notification to the said Insurance Commissioner when at any time whatsoever the Trust Fund Deposit is less than the aforesaid minimum requirements of four hundred thousand dollars (\$400,000) or fifty million dollars (\$50,000,000) as the case may be. The Trustee shall likewise immediately give written notification of any proposed amendment(s), change(s), addition(s), and deletion(s) to the Trust Fund Agreement to the said Insurance Commissioner and the Trustee shall not agree to or approve any such amendment(s), change(s), addition(s), or deletion(s) to the Trust Fund Agreement without the prior written consent and approval of the said Insurance Commissioner.

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Department of Insurance
SURPLUS LINES BULLETIN NO. 4

**PLACING SURPLUS LINES INSURANCE; DUTY OF INQUIRY
BY SURPLUS LINES BROKER**

Original No. 70-2
Adopted July 1, 1970
Amended April 15, 1992

Recently there have been questions regarding surplus lines insurance and several instances of agents or brokers placing such insurance when they are not licensed to do so.

Prior to placing surplus lines insurance or otherwise acting as a surplus line broker, it will be the responsibility of each individual so acting to pass the surplus lines broker's examination and acquire a valid Delaware Surplus Lines Broker's License.

Chapter 19 of the Delaware Code, Title 18, deals exclusively with surplus lines insurance. It provides standards for the public policy favoring insurability even at an excess premium rate. Surplus lines brokers are provided with guidelines for the proper conduct of business. So that the public may be afforded sufficient protection, the Insurance Commissioner is vested with discretionary authority to determine which insurers, both foreign and alien, are financially strong and stable enough to offer surplus lines coverage through insurance brokers in the State of Delaware.

A foreign insurer is an insurer organized and authorized under the laws of another state, District of Columbia, or any United States territory or possession.

An alien insurer is an insurer organized and authorized under the laws of any country other than the United States or state therein, District of Columbia or any United States territory or possession.

From time to time the Commissioner shall publish a list of all surplus lines insurers deemed by him to be eligible currently and shall mail a copy thereof to each broker at his office. Surplus lines brokers and other interested persons may petition the Commissioner to add coverage to this list. Such petitions must be in writing and show good cause why such coverages should be included on the list. The suitability of certain alien authorized insurers shall be prima facie established by designation on the Non-Admitted Alien Insurers Quarterly Listing published by the National Association of Insurance Commissioners, Non-Admitted Insurers Information Office.

Licensed insurers or licensed agents or brokers or other interested persons may petition the Commissioner to remove coverages from this list. Such petitions must be in writing and must show that there is a market for such coverages in authorized insurers.

No list approving or disapproving authorized insurers for surplus lines shall be promulgated. It is not required that the Commissioner determine the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the Commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers all surplus lines business placed by him.

Duty of inquiry by surplus lines broker:

(1) Before placing insurance with an unauthorized insurer, all surplus lines brokers shall make a thorough inquiry into the financial condition and operating history of such insurer in order that the interests of the citizens of Delaware may be protected.

(2) During the course of placing business with an unauthorized insurer, either foreign or alien, each surplus lines broker shall be under a continuous duty to apprise himself that such insurer maintains a

condition of solvency and general financial health, and that the company processes claims and pays losses expeditiously.

(3) Whenever any reasonable doubt arises as to the capacity, competence, stability or good faith of an authorized insurer with whom a surplus lines broker places insurance on behalf of the public of Delaware, the broker is under a further duty to inform the insurance Commissioner of the basis of such doubt. Any broker in a position of doubt shall immediately cease and desist placing further business with such insurer.

Certain other forms are available from this Department relating to the application for Surplus Lines Broker's License, Surplus Lines Broker's Affidavit, Notice of Insurance Effectuated, Monthly Report to the Insurance Department and Tax Forms.

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Department of Insurance

SURPLUS LINES BULLETIN NO. 6

PREMIUM TAX ON SURPLUS LINES INSURANCE DEFINITION OF TAXABLE PREMIUM

There has been some question about the treatment of policy fees when reporting premium amounts used to calculate insurance premium tax due to the State of Delaware on surplus lines insurance written in this State. The purpose of this Bulletin is to clarify the definition of taxable premium according to Delaware law, and to instruct surplus lines brokers in the proper reporting and calculation of premium tax.

It is the Department's position that insurance premium tax should be calculated on premiums including any associated fees in consideration for surplus line insurance policies. The Department bases its position on the following:

Chapter 19 of the Delaware Code, Title 18, deals exclusively with surplus line insurance. Section 1917 provides for a tax on surplus line insurance, which shall be computed on premiums received, exclusive of sums collected to cover federal and state taxes and examination fees, if any. This tax shall be at the same rate as applies to premiums for like kinds of insurance written by authorized insurers under Title 18.

Chapter 7 of Title 18, addresses the general premium tax provisions as they apply to authorized insurers. 18 Del. C., § 702(a) requires all insurers to report gross direct premium income, *including policy, membership and other fees, assessments and all other considerations for insurance (emphasis added)* on risks located in this State, after deducting amounts for returned premiums on cancelled policies and the unabsorbed portion of any deposit premium and the amount returned to policyholders as dividends and similar returns, whether paid in cash or used for reduction of premiums. 18 Del. C., § 702(c)(1) specifies a tax rate of 1.75% and § 707(a) specifies an additional .25%, for a total premium tax of 2%, upon this gross direct premium income as reported according to § 702(a).

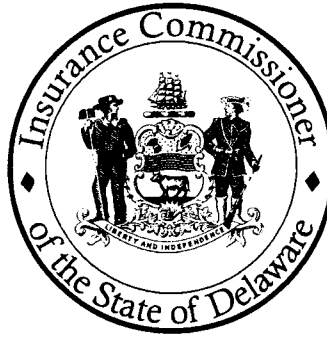
In addition, 18 Del. C., § 2703 defines premium as "the consideration for insurance by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium."

Therefore, it is determined that all surplus lines brokers must consistently include all associated policy fees in the calculation of taxable premium, and submit payment of insurance premium taxes based on policy premium including policy fees as required in Title 18. This ruling shall be effective immediately.

Dated: Feb 11, 2004


Donna Lee H. Williams
INSURANCE COMMISSIONER

Matthew Denn
Insurance Commissioner



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Surplus Lines Bulletin No. 7

TO: Surplus Lines Licensees (Brokers and Business Entities)

RE: Surplus Lines Filing and Reporting Requirements

DATE: December 21, 2006

Background

A significant part of the Insurance Commissioner's obligation to Delaware citizens is to ensure that sufficient protection is available for risks throughout the state. The surplus lines market exists to help provide coverage that is not available through the admitted market. All surplus lines business is subject to conditions specified in 18 *Del. C. Ch. 19*^{*}, and it is through the responsibilities placed on surplus lines brokers that the surplus lines market is regulated by the Insurance Department.

Purpose

The purpose of this bulletin is twofold. The first purpose is to introduce new filing procedures intended to streamline surplus lines (SL) policy and premium tax reporting, and to facilitate compliance with all filing requirements. The second purpose is to emphasize the surplus lines licensee's (broker and business entity) responsibilities to meet these filing requirements, and the Department's intent to strictly enforce compliance with the statutory requirements. **This Bulletin supersedes and replaces Surplus Lines Bulletin No. 1.**

Changes in Reporting Procedures

To reduce the considerable paperwork burden associated with surplus lines reporting, especially in light of the dramatic increase in volume of surplus lines business written in Delaware during recent years, the Department has initiated important changes in reporting procedures. To assist and acquaint resident and non-resident Delaware Surplus Lines licensees and their staff with proper procedures, the Department has developed a new ***Surplus Lines Broker Procedures Manual***, which is available in searchable electronic format and can be printed for reference. The new manual will be available on the Department's website <http://www.delawareinsurance.gov> by January 1, 2007. All parties involved in the surplus lines insurance business are directed to access and use this tool.

* All statutory references are to Title 18 of the Delaware Code

Along with existing forms and information, the manual contains detailed instructions for completing the following *new forms* designed to streamline Surplus Lines reporting. These forms are available on the Department's website www.delawareinsurance.gov under the "Forms and Applications" section. The forms are to be used by all surplus lines licensees:

- ***Surplus Lines Notice of Insurance Transaction, Form SL-1905*** – This new form is in Microsoft Excel® format, and can be submitted to the Department via email as an attachment. The form may also be printed for broker records or given to the insured as evidence of insurance transacted. This new form replaces the Broker Affidavit (old Form SLB-A1), the Broker Certificate, (old Form SLB-C1), and the Broker of Record (Form SLB-R1).
- ***Surplus Lines Quarterly Premium Tax Report, Form SL-1917*** – This new form replaces the Surplus Lines Broker Monthly Report, old Form SLBM-1. After submitting the December 2006 report (due by January 15, 2007) surplus lines brokers will no longer be required to file monthly reports. The new SL-1917 form is due on or before April 30, July 30, October 30 and January 30 each year, beginning with an April 30, 2007, report for the January-February-March 2007 calendar quarter. Premium tax payment should be remitted each quarter with the SL-1917.
- ***Surplus Lines Statement of Diligent Effort, Form SL-1904*** – This form must be completed and signed by the individual licensee who represents the insured (producing agent or broker). If the producing agent is not licensed for surplus lines, this form must be completed and signed by the producing agent then forwarded to the SL Broker. If the SL Broker also acts as the producing agent, the SL Broker must complete and sign the form. This form must be kept with the surplus lines broker's other policy records and must be open to examination by the Commissioner at all times for 5 years after issuance of the coverage to which it relates. (§1915) This form should NOT be mailed to the Insurance Department.
- ***Surplus Lines Binder/Policy Number Replacement, Form SL-1908*** – It is critical that a surplus lines broker notify the Department when a previously reported binder number is replaced with an actual policy number. This form must be submitted as soon as the policy number becomes available.

IMPORTANT: All surplus lines licensees – individual brokers and business-entities – must use their 7-digit Delaware SL license number as their Broker ID or Agency ID. This number will be consistently used by the Department for SL broker identification. The 7-digit Broker ID must be used on all correspondence to the Department, including all forms. Agencies must also use their 7-digit Delaware business entity SL license number for identification purposes. Although the premium tax section of the Department retains SSN and FEIN in the tax data records, those numbers will only be used for cross-matching purposes, not as general identification numbers.

Broker Responsibilities and Compliance

The Department has encountered several and varied compliance violations committed by reporting brokers and business entities. Due to the increasingly frequent occurrence of these violations, the Commissioner has determined that there is a need for more rigorous enforcement

of compliance with surplus lines reporting requirements. All brokers and business entities have until April 1, 2007 to bring their licenses, records, reports and tax payments up to acceptable standards as detailed in the *Surplus Lines Broker Procedures Manual*. For violations that have not been remedied by or for violations occurring after April 1, 2007, all surplus lines licensees, including business entities, will be strictly held responsible for complying with the existing statutory requirements and the rules set forth in this Bulletin.

The information in this section addresses several of the most prevalent problems that have been encountered and briefly attempts to clarify the proper reporting procedures relative to those problems. This is not meant to be an exhaustive listing of violations and in its enforcement of compliance the Department may cite other violations. Refer to the *Surplus Lines Broker Procedures Manual* for more specific instructions on proper compliance procedures.

1. **Licensing Problems** -- All surplus lines business must be procured through a surplus lines broker duly licensed by the Delaware Insurance Department (§ 1904)

Any current insurance producer, non-resident SL broker, or business entity who needs to become licensed in DE for surplus lines in order to be brought into compliance with Delaware law, must do so before April 1, 2007 to avoid administrative penalties. Online license applications may be obtained at these links for both individuals and business entities:

Residents: www.delawareinsurance.gov (click on link for the "Producer Licensing" section)

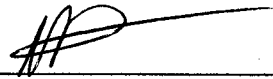
Non-residents: www.licenseregistry.com

2. **All individual surplus lines brokers must submit tax and fees reports, regardless of business volume.** So called "No business" or "Zero business" reports are required. Reports are required from each individual SL broker, not business entities. Individual SL brokers are "linked" to business entities for reporting purposes and should list the business entity name and address as their place of business.
3. **Surplus Lines policies on DE risks should not be placed with companies that are not listed as eligible insurers on the Surplus Lines Bulletin No. 5 listing.** All surplus lines business must be procured from eligible surplus lines insurers. (§1907(b)) The Department publishes Bulletin # 5 on its website as a list of insurers deemed eligible to transact business in Delaware on a surplus lines basis.
4. **Delaware does not have an "Export List".** For all surplus lines business, the Department requires a **minimum of three (3) declinations** from representatives of admitted insurers as evidence that a diligent effort to procure the coverage from an authorized insurer was made prior to placing the coverage with an unauthorized insurer. Although §1906 empowers the Commissioner to declare any class or classes of insurance coverage eligible for export, the Commissioner has not done so as of this date.
5. **The full amount of premium tax must be remitted.** A tax of 2% is due on all insurance premiums written on Delaware risks. Surplus Lines Bulletin No. 6, effective February 11, 2004, clarifies the Department's definition of taxable premium to include associated policy fees. SL Bulletin No. 6 also instructs all surplus lines licensees to "consistently include

associated policy fees in the calculation of taxable premium, and submit payment of insurance premium taxes based on policy premium including policy fees as required in Title 18.”

Penalties:

All brokers and business entities have until April 1, 2007 to bring their business and reporting practices into compliance with the rules set forth in this Bulletin and in 18 *Del. C.* Ch. 19. After April 1, 2007, all surplus lines licensees found to be in violation of these rules and procedures will be subject to such penalties as are specified in §1918, or §106, and may also be ordered to appear for hearing to show-cause why their insurance license should not be revoked or otherwise subject to the penalties in §1712.



Matthew Denn
INSURANCE COMMISSIONER